R. Dis File No. 31

1939

Collection No. 1

9586

29/7/47 mas 29/7

~~Proc.~~ Serial Nos. 1 - 135

Subject.

Income tax Circulars & Circular instructions

Previous References.

RD 60/38

Later References.

RS

RDio 31/40
6/43
104/45
14/46
1135
216/45

R.Dis. File No. 61-39

19

Collection No. 1

R31/1939

Resident's Office,

Bangalore.

Pros. Serial Nos.

Subject.

Income-tax Circulars and Circular Instructions.

Previous References.	Later References.
R.Dis.60/38	R.Dis.385/39 (Return).

S. 97.—(Blue).

IFP—1187 S&P—(M-2104)—21-3-39—70,000.

R. Dis. **FILE No.** 31 **1939.**

Section. File No.

Heading. Serial No.

NOTES.

DEPT.
BRANCH.

Pros. 19 . Nos.

Subject.

Income tax Circular 2
Circular instructions

Notes and Orders.

RA 60/38.

S. 1.

MFP—1406 S&P—(M-2338)—18-3-37—200,000.

PUC I — D.No. 257 — S.N. 1

" II — " 258 — " 2

---

1 2 drafts submitted.

16-1-39

20/1/39.

G.1.39

S.N. (3+4) Done

P.U.C. — D.No. 760 — S.N. 5

---

2 Draft submitted.

26-1-39

(Para 2 only)

27.1.39

28/1

S.N. (6) Done.

p.u.c. — D.No.817. — S.N. 7

3 Draft submitted.

26/1/39.

30.1.39

31.1.39.

(Para 3 only)

S.N. (8) Done.

C.p. 13 (PUC I) D.No. 1209 S.N. 9

" 15 " II " 1333 " 10

S.N. 9

4 Draft submitted.

S.N. 10

C.P. 9 & 10 'S' 5 Please see S.N. 5 and 6.

Draft submitted.

11-2-39

(From para 4)

13.2.39

14-2

S.N. (11+12) issue

...ment up-to-date
...connection)

PUC I ✓ D.No. 1078 ✓ S.N. ~~9~~ 13 ✓

" II ✓ " 1303 ✓ " ~~10~~ 14 ✓

" III ✓ " 1422 ✓ " ~~11~~ 15 ✓

PUC I ✓ S.N. 13 ✓ 9

C.p. 94,95,113 & 115 'F' 6 Please see S.N. 57,58,72 & 74 of file R.Dis. 60/38.

The Income-tax Officer, C.& M. Station, has already issued

S.N.1 ✓ ✓ ✓ F.D.Dis.594/38 'H' instructions re the discontinuance of monthly schedules of income-tax deductions made from salary & pension and the submission of annual returns under Section 21 of the -- Income-tax Act. The enclosure to PUC has already been -- received direct from the Accountant General, Madras - vide

" S.N.2 of file D.Dis.594/38. In this connection please see paras 1 & 2 of office notes in that file.

Draft submitted.

PUC II & III S.N. ~~10~~ & ~~11~~ 14 + 15

7 2 drafts submitted.

16-2-39

18.2.39

S.N.(16,17 + 18) Issue.

PUC I
" II

D.No. 1768 S.N. 19
" 1791 " 20

---

8 2 drafts submitted.

25.2.39

27.2.39

28/2

S.N.(21 & 22) Issue.

D.No.2712	S.N.23
D.No.3032	S.N.24
D.No.2949	S.N.25
D.No.2953	S.N.26

9 S.N.23 & 24

Draft submitted.

10 S.N.25 & 26

Draft submitted.

11 23/3/39.

I.T. (Amendment) Act 1939, comes into force in Br. India on 1.4.1939 and we have asked the Pol. Deptt. to apply the Act to the C.&A. Station from that date. The Asst. Commr. of I.T may be informed of it.

25.3.39

27/3

S.N. 27 & 28. Issue

D.No.3135 S.N.29

Draft submitted.

31/3/39

31.3.39

Main file submitted in another connection

S.N.(30)

P.U.C	D.4139.	S.N.31
	D.4176.	S.N.32
	D.4336.	S.N.33
	D.4246.	S.N.34.

12

S.N.31. Please see S.N.1 to 4. Draft submitted.

13

S.N.32. Draft submitted.

14

S.N.33 and 34. Draft submitted.

7.5.39

8.5.39

9-5

S. N. 35 to 37 (under issue)

D.3996. S.N. (38)

15

It has been ascertained from the receipt register that the letter C.No.92-Gl./37, dated the 6th December 1938, referred to in the P.U.C. has not been received here. A copy of it may be obtained. Draft submitted. It would appear that Section 172(1)(a) of the Government of India Act, 1935, has no application to the C.& M. Station as it relates only to "Provinces", i.e. Provinces in British India. The question will be further examined on receipt of the letter.

(Main file submitted in another connection.)

10.5.39

10.5.39

11/5

S.N.39. Issue

D.4699.	S.N.40
D.4823.	S.N.41
D.4840.	S.N.42
D.4741.	S.N.43
D.4864.	S.N.44
D.5061.	S.N.45

16

C.36-47 + 50 (I)

S.N.40 and 41. Please see S.N.23, 24 and 27. The Assistant Commissioner of I.T. suggests a modification to the Memorandum of Instructions. But as we have received the Memorandum as finally drawn up, it seems unnecessary to communicate the suggestion to the C.B.R. Draft submitted. (A copy of the Memorandum may be given to the Cashier.)

Received 17.6.39

S.N.42

17

S.N.42. Draft submitted. After issue this may be circulated in office.

18

S.N.43. Draft submitted.

19

S.N.44 and S.N.45. Draft submitted.

23.V.39

19.5.39.

22.5.39

S.N 46 to 49 under issue

AJS.

S.N. 50

Dy.No.3508

S.N. 51.

Dy.No.3599

S.N. 50 (D.3508)

20

This does not affect the Station where there is only one I.T.officer. May go to the Asst.Commr. for information. Draft submitted.

S.N. 51 (D.3599)

21

Letter from the C.B.R. ~~Nxx~~ dated the 16th Feb. 1939, referred to, has not been received in this office. It is not necessary, for ~~exxxxthexxxdexxxxxfxxxxx~~ ~~Rxbxx1222x~~ here all offices including the I.T.office follow the instructions of the Pol.Deptt. which have been communicated to them also. A copy may however go for information. Draft submitted.

(C)

Asstt. Budget Clerk. 9.5.39.

8/5/39

11/5

S.N. 52 & 53. Issue.

D.3997. S.N. (64)

Main file submitted in another connection. 22

(y)

The enclosure to the p.u.c. has not been received in this office. The p.u.c. was in the first instance missent to the office of the Commissioner of Income-tax in Mysore and they were asked (by letter) whether the enclosure was received by them. It was not received by them either. A copy may be obtained from the C.B.R. Draft submitted.

W 19.5.39

20.5.39

A.R.Rau 22.5.39

S.N. 55 Issue

A.E.

D.3730. S.N. (56)

× Since brought on to file

D.4335. S.N. (57)

Draft submitted.

The implications of these two letters and how far they will affect the proposals of the Income-tax Officer in his U/O note dated the 25th April 1939 are under examination. The file will be submitted urgently after the draft issues.

× (J)

20.4.39

12.5.39.

15/5

S.N. 58. Issue

D.4868.	S.N.59
D.5194.	S.N.60
~~Dx5220x~~	~~SxNx61~~
D.5291.	S.N.61.

24

S.N.59. Draft submitted.

S.N.60. Draft submitted.

(D) S.N.61. Please see S.N.33 and 37. Draft submitted.

2-6-39

31.5.39

1.6.39

S.N. 62 to 64 Issue

D.5290. S.N.65.

25

Page 109 of the Act (put up.)

Page 33 of the Act (put up).

The Finance Department notifications referred to in the p.u.c. do not appear to have been received here. Moreover, Section 172(1)(a) of the Government of India Act, 1935, applies to Provinces only. (For definition of 'Province', please see Section 46(3) of the Act.) No action, therefore, appears necessary on the p.u.c. .. .. May be filed.

(Please see also para. 15 of notes ante

Pol. B.

Have you any

9.

No. please

7.6.39

9.6.39

10/6

12/6/39.

12/6

Secy.

D.5465.	S.N.66
D.5336.	S.N.67
D.5466.	S.N.68
D.5381.	S.N.69
D.5383.	S.N.70
D.5535.	S.N.71
D.5731.	S.N.72.
D.5670.	S.N.73.

26

S.N.66, 67, 69, 70 and 72. Draft submitted.

27

S.N.68. Please see S.N.40 and 46. Draft submitted. (Necessary correction has been made in ~~the~~ our copies.)

28

S.N.71. Please see S.N.61 and 64. The copies of the Notes received may be retained in Office ~~until~~ pending receipt of a reply to S.N.64.

S.N.73. Draft submitted.

13.6.39

14.6.39

16.6

A/S.

S.N. 74 to 76 (under issue)

D.5981.	S.N.77
D.6022.	S.N.78
D.6048.	S.N.79
D.6049.	S.N.80

29

S.N.77 and 79. Draft submitted.

(D) 30

S.N.78. Please see S.N.61 and 64. 17 copies of the 'Notes' have already been received. (D) Vide S.N.71. 8 copies may be sent to the Asst. Commr. of Income-tax and the rest may be retained in office. Draft submitted. It does not appear necessary to address the Central Board of Revenue with reference to the last para of their letter at S.N.61, as our requirements do not exceed the number of copies received.

31

(D) (D)

S.N.80. Please see S.N.57 and 58. Draft submitted.

17.6.39

ASRao
17.6.39

19.6.39

S.N. 81—84 Issue

A.S.

D.6137	S.N.84
D.6140	S.N.85
D.6146	S.N.86
D.6205	S.N.87
D.6303	S.N.88
D.6304	S.N.89
D.6305.	S.N.90.

(D) 32 S.N.84. Please see S.N.54 and 55. May be filed after circulation in office.

33 S.N.85, 87, 89 and 90. Draft submitted with fair.

(D) 34 S.N.86. Please see S.N.38 and 39. and para 15 of notes ante. May be filed.

35 S.N.88. Draft submitted with fair.

Give me a copy of No 87 please. Egerton.

24.6.39

24.6.39

26.6

S.N.91 & 92 under issue

D.6624. S.N.93.

D.6628. S.N.94.

(D)

S.N.93. Please see S.N.71 and 82. Necessary correction carried out in the office copy of the Notes Draft submitted with fair.

Correct all copies 36
Please see S.N.71
B 6.7.
of (D)

37

S.N.94. Draft submitted with fair.

W 4.7.39.

B 6.7.39.

A.S.R. 4.7.39

A.S.

S.N.95 amd 96. Issue.

D.6810.	S.N.97. ✓
D.6721.	S.N.98.
D.6818.	S.N.99.
D.7029.	S.N.100. ✓
D.7030.	S.N.101. ✓
D.7096.	S.N.102. ✓
D.7169.	S.N.103. ✓
D.7171.	S.N.104. ✓

Draft III 38

S.N.97 and 100 to 104. Draft submitted.

Draft I c.p.19 & 25

(D)

S.N.98. Please see S.N.13 and 16. Draft submitted.

S.N.99. 6 copies of the "Memorandum of Instructions, etc." have been received from the Central

D.7548.	S.N.117
D.7623.	S.N.118
D.7598.	S.N.119
D.7699.	S.N.120

c.f. 111 40 ① c.f. 136 ②

S.N.117. Encl. to this is the same as S.N.66 copy of which has been communicated to the Asst. Commr. of Income-tax.- Vide S.N.74. We may now forward copies to the other local officers. Draft submitted.

41

S.N.118 and 120. Draft submitted. (Copy of S.N.118 which was sent to F.A. for perusal has been retained by him, as he wanted to take immediate action on it.)

c.p.54 and 56. 42 ①

S.N.119. Please see S.N.31 and 35. Draft submitted.

28.1.39. 2.8.

AsRao 28.7.39 3.8.

A.S.

4.8.

S.N. 121 - 122. Issued

S.N 123 under issue

D.7805.	S.N.124. ✓
D.7818.	S.N.125. ✓
D.7832.	S.N.126. ✓
D.7833.	S.N.127.
D.7860.	S.N.128. ✓
D.8223.	S.N.129. ✓
D.8224.	S.N.130.

c.p.22 and 26 'D'

43

S.N.124. Please see S.N.14 and 17. Draft submitted.

44

S.N.125, 126 and 129. Draft submitted.

45

S.N.127. Draft submitted.

46

S.N.128. Draft submitted. (Encl. to S.N.128 is the same as S.N.101 copy of which has been communicated to the Asst. Commr. of Income-tax.)

× vide S.N.107

c.p.52 and 53. 'D'

47

S.N.130. Please see S.N.29 and 30. Draft submitted. Issue drafts I, II, IV and V then resubmit-

48

12.8.

11.8.39.

11.8.39

Drafts I, II, IV and V (under issue)

A.S.

49

Resubmitted with reference to para. 48 ante.

Issue.

16-8.

14.8.39.

14.8.39

A.S.

S.N.I (Pwc I) [illegible]

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE 10/4/39
Recd. No. 457
File No. P.D 607

R.Dis.No.438-I.T./37.

CENTRAL BOARD OF REVENUE,

New Delhi, the 19th December, 1938.

From

K.G. Jacob Esquire, M.A.,

Second Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Central and United Provinces,

Sir,

Refunds - Income-tax - Moneyorders - Remittance of through the Post Offices.

With reference to your letter No. 348-2/37, dated the 26th May 1937, I am directed to say that it has been decided in consultation with the Auditor General that instead of sending the money order forms to the Treasury Officers or the Imperial Bank of India or the Reserve Bank of India, as at present they should be duly completed by the Income-tax Officer and sent by him to the Post Office along with a cheque drawn in favour of the Postmaster concerned for the amount of the refund plus money order commission. The Post Office will arrange to pay the amount of the refund to the refundee. The postal receipt received by the Income-tax Officer should be pasted on the back of the counterfoil of the refund order and the payee's acknowledgment when received from the Postmaster should be sent to the Accountant-General, with the paid refund voucher. If in some cases it is not possible to transmit the payee's acknowledgment to the Accountant General along with the paid refund voucher, it should be sent to him later. The Board's letter R.Dis.No.340-I.T/34 dated the 29th March 1935 is cancelled.

2. A copy of paragraph 243(2) of the Posts and Telegraphs Manual, volume VI containing rules under which cheques in lieu of cash are accepted by Post Offices in payment of money orders is enclosed for your information and guidance. The Director General, Posts and Telegraphs has agreed that the guarantee mentioned in that rule that all cheques should be certified as 'Good for payment' will not be required in the case of a cheque issued by an Income-tax Officer in respect of a money order on account of refund of income-tax.

3. The Government of India are issuing a letter authorising the Income-tax Officers to draw on treasuries and sub-treasuries.

I have the honour to be,

Sir,

Your most obedient servant,

3.1.39

Second Secretary, Central Board of Revenue.

Copy, with a copy of the enclosure forwarded to the Commissioner of Incometax Madras, Bombay, Bengal, Punjab, Bihar and Orissa, Assam,

with reference to the correspondence ending with his letter

No. 490/38 dated the 2nd July 1938
Admn.411/36 dated the 20th September 1938
5910/IR/12-C.T., dated the 4th July 1938
1808, dated the 11th July 1938
A-95/6 dated the 7th July 1938
2-A/40 of 1938-39 dated the 17th June 1938

for information and guidance.

Copy together with a copy of the enclosure also forwarded to Commissioners of Income-tax, Minor Administrations for information.

Copy .....

Copy also forwarded to the Auditor General, the Civil Accountants General and Comptrollers and the Director General, Posts and Telegraphs for information.

By order, etc.,

3.1.39

Second Secretary, Central Board of Revenue.

S.N.2

5

OFFICE OF THE RESIDENT IN MYSORE
BANGALORE 10/1/39
Recd. No. 258
File No. 1960/38

R.Dis.No.438-IT/37.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT (CENTRAL REVENUES)

New Delhi, the 19th December 1938.

From

J.F. Sheehy Esquire, I.C.S.,

Joint Secretary to the Government of India,

To

All Commissioners of Income-tax.

Sir,

Refunds - Income-tax - Remittance by money orders accompanied by cheques.

I am directed to say that the Government of India have decided to authorise the Income-tax Officers to draw on treasuries and sub-treasuries with a view to facilitate the payment of refunds by money orders. Such Income-tax Officers as may require cheque books for the purpose should obtain their supplies from the treasuries with which they deal.

2. As regards accounting procedure, the refunds allowed by an Income-tax Officer will ordinarily fall under the following categories :-

(1) Corporation tax

(2) Super-tax

(3) Income-tax.

The refunds of the Supertax and Income-tax collected from the Central (Federal) emoluments require to be booked in Government accounts separately from those of the tax collected from income from other sources for the purpose of ascertainment and certification by the Auditor General under section 144 of the Government of India Act, 1935, of the net proceeds of income-tax.

It.....

It is therefore necessary that each Income-tax Officer should submit monthly to his Accounts Officer a classified account of the refund made by him by cheques during the month.

3. To facilitate the preparation of the monthly account, each Income-tax Officer should maintain a cash book in Public Works Accounts Form No. 1 and as soon as a cheque is issued the transaction should be recorded in it. He should also furnish to the Accounts Officer concerned with his monthly account a list of cheques issued by him during the month. If in any case the money order is returned by the Post Office undelivered its amount should at once be taken to the Cash Book as an item of receipt and remitted to the treasury.

I have the honour to be,

Sir,

Your most obedient servant

Joint Secretary to the Government of India.

Copy forwarded to the Auditor General for information.

Copy also forwarded to all Civil Accountants General and Comptrollers for information.

2 drafts
Draft I
S.N.3

7

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 25/1/ 1939.

Issued 25/1/39

R.D. No. F. 31/39 / R. O. I Encl: 3 pages.

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of -- Income-tax, C.& M. Station, Bangalore, for information,

for information, ~~in continuation of~~ / with reference to ~~the correspondence ending with his~~

~~memorandum~~ / letter / endorsement from

~~No.~~ ~~dated the~~

By order, etc.,

20/1/39.

For *Secretary* / ~~Asst. Secy.~~ *to the Resident* & Commr. of Income-tax.

LIST OF PAPERS.

S.N. 1 (PUC I) Circular letter from the Central Board of Revenue R.Dis.No. 438-I.T/37, dated the 19th December 1938, with enclosure.

To the C.of I.T. Central and United Provinces

16.1.39

19.1.39

1687—12-3-1937—2,000—RPB.

24/1

1 draft to Draft II.

S. N. 4

8

Res. Mysore 39.

Draft 2571

Issued 2571/39

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 2571 *1939.*

Dy. No. F. 31/39 Enc 2 Sheets
R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of -- Income-tax, C.& M. Station, Bangalore, for information.

for information, in continuation of / with reference to ~~the correspondence ending with his~~ memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order, etc.,

20/

For *Secretary* to the *Resident*.& Commr. of Income-tax.
~~Asst.xSecy.~~

LIST OF PAPERS.

S.N. 2 (PUC II) Circular letter from the Govt. of India, Finance Dept.(Central -- Revenues), R.Dis.No.438-IT/37, dated the 19th December 1938.

To all Commissioners of I.T.

16.1.39

19.1.39

1687—12-3-1937—2,000—RPB.

S.N.5
22/1

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23...
Diary No. 760
File No. RD 31/39

C.No.460-I.T./38. 24-1-39

CENTRAL BOARD OF REVENUE

New Delhi, the 12th January 1939.

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Taxes on income - Divisible pool - Central (Federal) emoluments - Emoluments of employees of State Railways worked by Companies.

I am directed to say that the Government of India have decided in consultation with the Auditor General that emoluments paid to the servants of the State Railways worked by companies are Central (Federal) emoluments within the meaning of section 138(4) of the Government of India Act, 1935 and that the income-tax deducted from such emoluments should be credited to the head "taxes in respect of Central (Federal) emoluments" and should be excluded from the divisible pool. This decision will also be applicable to the Branch line companies and lines owned by Indian States etc. which are worked by main line belonging to Government.

I have the honour to be,

Sir,

Your most obedient servant,

16 - 1 - 39.

First Secretary, Central Board of Revenue.

Copy forwarded to the Auditor General for information.

C.M. 1937-38.

COMMITTEE ROOM.

New Delhi, the [illegible] 1938.

[illegible]

[illegible]

[illegible]

S.N.6

10

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 3/2 *1939.*

.Dis. No. F. 31/39 / R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of -- Income-tax, C.& M. Station, Bangalore, for information.

for information, in continuation of / with reference to ~~the correspondence ending with his~~ memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order, etc.,

For *Secretary* / ~~Asst. Secy.~~ *to the Resident.* & Commr. of Income-tax.

LIST OF PAPERS.

S.N.5 (PUC) Letter from the Central Board of Revenue, C.No.460-I.T/38, dated the 12th January 1939.

26.1.39

27.1.39

1687—12-3-1937—2,000—RPE.

S. N. 7

D.A.Dis.No.719-I.T./37.

Central Board of Revenue.

New Delhi, the 12th January 1939.

25.1.39
OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
24 JAN. 1939
Diary No. 817.
File No. R031/39.

RD60-36

Memorandum

General Index Register - Permanent and five year record - Forms I.T. 36 and 37 - Amalgamation of..

The Commissioners of Income-tax are informed that the forms of the General Index Register (I.T. 36 and 37- Permanent and Five year records) have been amalgamated and numbered I.T.36. Copies of the new form which will be printed on a stronger paper than hitherto, may be had, in due course, from the Manager of the Forms Press, Calcutta.

2. In connection with the writing up of the General Index Register in the new form the Income-tax Officers may be instructed that the General Index Register number should be utilised as the permanent assessment record number and should not, as at present, be changed every time the new G.I. Register is written up. The miscellaneous record may however continue to be given its annual number as well as the permanent General Index Register number.

18-1-39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

Copy ..

Copy forwarded to the Controller of Printing, Stationery and Stamps, for information, with reference to his u.o.No.62/17/38, dated the 3rd January 1939.

SR.
17/1.

S. N. 8

12

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 4th February *1939*.

R.Dis. No. F. 31-39 / R. O. I.

A copy of the undermentioned paper(s) is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information & guidance.

~~for information,~~ ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with his~~

~~Memorandum~~ / ~~letter~~ / ~~endorsement~~ ~~from~~

~~No.~~ ~~dated the~~

By order, Etc.,

for *Secretary* / ~~*Asst. Secy.*~~ *to the Resident* in Mysore & Commissioner of Income-tax

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LIST OF PAPERS.

S.N.7 / F.H.C.

Memorandum from the Central Board of Revenue, New Delhi, D.A.Dis.No.719-I.T./37, dated the 12th January 1939.

1621—2-4-1935—2,000—RPB.

S.N.9

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
4 FEB. 1939
Diary No. 1209.
File No.

6-2-39/13

D.O. C.No.580-I.T./38.

1078 Circulated

R031-39-7

CENTRAL BOARD OF REVENUE.

New Delhi, the 20th January 1939.

My dear Clarke,

Agricultural income from lands situate in Burma - Remittances to British India after separation - Liability to tax.
Mullan's D.O.No.830/38, dated the 4th November 1938.

The answer is that if the agricultural produce was received in satisfaction of rent, interest or other legal claim it was received as income and its subsequent conversion into money by sale makes no difference. But if it were agricultural produce remaining in the grower's hands without being converted into money or money's worth, then it is not income received until so converted (case of Diwan Bahadur S.L. Mathias, Privy Council Appeal No. 16 of 1938).

Yours sincerely,

J.F. Sheehy,

E.W. Clarke, Esq.,
Commissioner of Income-tax,
Madras.

Copy of correspondence forwarded to other Commissioners of Income-tax.

By order etc.

First Secretary, Central Board of Revenue.

R.27/1.

D.O. No. 830/38. Office of the
Commissioner of Income-tax,
Madras, dated the 4th Novr. 1938.

My dear Sheehy,

Agricultural income from lands situate in Burma - Remittances to British India after separation - Liability to tax.

The Assistant Commissioner, Southern Range, has raised the question whether remittances made out of the sale proceeds of agricultural produce received in Burma before 1st April 1937 but sold on or after that date are liable to be taxed or whether they are covered by the exemption granted by the Government of India in their letter Finance Department (Central Revenues) No. 648-I.T./37 dated 5th October 1937. According to those orders "agricultural income" which accrued or arose or was received in Burma (or British India) before separation is exempt from British Indian Income-tax, and the exemption applies to agricultural income remitted to British India after separation if received in Burma before separation. The Assistant Commissioner thinks that - in accordance with the views of the Department as expounded in Dewan Bahadur S.L. Mathias case (now before the Privy Council on appeal) - profit can be said to arise only when produce is sold and that sale-proceeds realised after the separation of Burma are not agricultural income which accrued or arose before separation even though the agricultural produce itself was received before separation. Personally I think

that....

that the distinction he seeks to draw between the sale proceeds of agricultural produce realised before and after separation is entirely artificial, but as the answer to the question raised depends on the interpretation of the Government of India's orders of the 5th October 1937, I should be glad if you let me know whether I may inform him that no distinction need be made between agricultural produce sold before or after 1st April 1937 provided that such produce was harvested before separation took place.

Yours sincerely,

C.S. Mullan.

J.F. Sheehy Esquire, I.C.S.,
Member, Central Board of Revenue,
New Delhi.

S.N.10 (Pt.II)

115

R.Dis.No.460-I.T./38.

Central Board of Revenue.

New Delhi, the 27th January 1939.

...

A copy of the undermentioned paper is forwarded to all Commissioners of Income-tax in continuation of the Board's letter C.No. 460-I.T./38, dated the 12th January 1939.

By order, etc.,

2-2-39

First Secretary, Central Board of Revenue.

PAPER FORWARDED.

Auditor General's letter to the Accountant General, Madras No.68-Ac./144-Admn.I./37, dated the 19th January 1939.

SR.
31/1.

S.N.5 c.f.9 (S)

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
8 FEB. 1939
Diary No. 1333
File No. R.P. 31/39.

V/1303/SS(F)/7/2

Copy of letter No. 68-Ac/144-Admn.I/37, dated the 19th January 1939, from the Auditor General of India, New Delhi, to the Accountant General, Madras.

.....

Computation of the divisible net proceeds of Taxes on Income.

....

In continuation of this office letter No. T.1109-Comp./K.W.64-38, dated the 24th August 1938, on the subject mentioned above, I have the honour to state that the Government of India have agreed that the tax recovered from the employees of the Major Port Trusts, who are paid for from the funds of those Trusts, and the tax recovered from the staff of the Vizagapatam audit office whose pay, though initially debited to "26-Audit" is eventually recovered in full from the funds of the Vizagapatam Port, should not be excluded from the divisible pool for purposes of Section 138 of the Government of India Act, 1935.

S.N.12

17

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21/2/ *1939.*

R.Dis. No. F. 31/39 / R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of Income-tax, C.& M. Station, Bangalore, for information.

for information, ~~in continuation of~~ / ~~with reference to~~ the ~~correspondence ending with his~~ ~~Memorandum~~ / ~~letter~~ / ~~endorsement~~ from

~~No.~~ ~~dated the~~

By order, etc.

For *Secretary* / ~~*Asst. Secy.*~~ *to the Resident* & Commr. of Income-tax.

LIST OF PAPERS.

Encl. to S.N. 1 — D.O. letter from the Commr. of Income-tax, Madras, to the Central Board of Revenue, No. 830/38, dated the 4th November 1938.

S.N.1 (PUC) — D.O. letter from the Central Board of Revenue to the Commr. of Income-tax, Madras, C.No.580-I.T/38, dated the 20th Jany 1939.

11-2-39

1621—2-4-1935—2,000—RPB.

5.N.12

Draft II

18

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21/2 *1939.*

R.Dis.No. F. 31/39 / R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of Income-tax, C.& M. Station, Bangalore, for information, in continuation of endt. from this Residency R.Dis. No. F.31/39/R.O.I., dated the 3rd February 1939.

S.N.6
C.p.10 'S'

for information, ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with his~~ Memorandum / letter / endorsement from

~~dated the~~

By order, etc.

For *Secretary* / ~~*Asst. Secy.*~~ *to the Resident.* & Commr. of Income-tax.

LIST OF PAPERS.

Encl. to S.N.10 (PUC II) — Auditor General's letter to the Accountant General, Madras, No. 68-Ac./144-Admn.1/37, dated the 19th January 1939.

11.2.39

1621—2-4-1935—2,000—RPB.

S.N.13 (Part I)

C.No.109-I.T./38.(K.W.I)

Central Board of Revenue.

New Delhi, the 21st January 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,

(except Madras and Punjab).

Sir,

Taxes on Income - Divisible net proceeds - Computation of.

...

I am directed to invite a reference to the correspondence resting with your reply to my letter C.No.109-I.T./38, dated the 20th September 1938 on the above subject. It is not clear from your reply whether clear instructions have been issued by you to the Disbursing Officers and the Treasury Officers for the submission of Annual Returns under section 21 in two parts in future and to maintain subsidiary registers where they are considered essential in order to ensure the accuracy of these returns. (Cf. Board's letter C.No.605-I.T./36 dated the 4th August 1938). As defective annual returns are likely to cause delay and to hold up the test audit which the Auditor General considers necessary for the purposes of his certificate under Section 144(1) of the Government of India Act, 1935, I am to request that necessary instructions may be issued, if not already done, to all concerned at a very early date.

In

In this connection I enclose, for your information and guidance, a copy of the draft circular proposed to be issued by the Accountant General Madras to all Heads of Offices and Treasury Officers for the compilation of returns under section 21.

2. It has been brought to the notice of the Board that a large number of disbursing officers do not furnish annual returns within the time limit laid down in Section 21 of the Act. The necessity for the submission of the returns in time should be particularly impressed on the officers concerned and they should be asked to take special steps in this direction. The names of the defaulters should be reported to the Board in the first week of July every year.

I have the honour to be,
Sir,
Your most obedient servant,

25-1-39

First Secretary, Central Board of Revenue.

Copy forwarded to -

Commissioner of Income-tax, Madras for information and necessary action. The question of supply of forms raised in paragraph 2 of his letter No.549/37, dated the 1st November 1938, is under consideration and a further communication will be made in due course.

Commissioner of Income-tax, Punjab with reference to his letter No.5099, dated the 14th December 1938, for information and necessary action.

The Auditor General.

All Accountants General and Comptrollers.

Copy of the Draft Circular, proposed to be issued to all Heads of Officers and Treasury Officers.

...

Subject:- Discontinuance of the monthly schedules of Incometax Deductions.

I have the honour to state that the Central Board of Revenue has decided to discontinue the use of the monthly schedules of incometax deductions (Form I.T.47) which are now attached to the pay bills with reference to the instructions contained in this office circular No.T.M. 23-75-2823, dated 8-11-1924. Consequently the schedules need not be attached to the pay bills to be prepared in the future.

2. The decision also involves the resumption of the submission of the 'annual returns' prescribed in Section 21 of the Indian Incometax Act 1922 and the rules framed thereunder. The returns have to be furnished to the Incometax Officers by the 30th of April every year by the following authorities viz.,

(a) Civil audit officers for all gazetted officers and others who draw their pay from audit offices on separate bills; and also for all pensioners who draw their pension from audit offices.

(b) Treasury Officers for all Gazetted Officers and others who draw their pay from treasuries on separate bills without counter-signature; and also for all pensioners who draw their pensions from treasuries.

(c) Heads of Civil Offices for all non-gazetted officers whose pay is drawn on establishment bills countersigned by the head of office.

(d) Forest disbursing officers and P.W.D. disbursing officers in cases where direct payment from treasuries is not made for themselves and their establishments.

3. The first annual returns should be furnished by the 30th April 1939 for the 12 months 1st April 1938 to 31st March 1939. The return should be compiled in two parts, the first part dealing with 'Federal (Central) emoluments' and the second with 'other emoluments'. Where an emolument is partly federal and partly provincial as much of it as is federal will be shown in the federal part of the annual return and the balance in the other part. The preparation of the return may be facilitated by the use of registers in Form I.T.48. Separate registers should, as far as possible, be maintained to show income derived from 'Federal sources' and other sources. Postings should be made monthly after the disbursements for the month are completed in the case of members paid on establishment bills and at the time of passing a bill at the treasury in cases where the Treasury Officer has to render the annual return. The totals of the entries in the register will then readily furnish the figures required for compiling the annual statement. Pending final orders as regards the supply of forms I.T.48 the number required for immediate purposes may be obtained from the nearest Incometax Officer.

4. On the introduction of the revised procedure the Treasury Officers should arrange to get back from the Incometax Officer, V Circle, the schedules for 1938-39 relating to gazetted officers and other officers drawing pay from their treasuries in respect of whom they have to furnish annual returns. If complete information is not obtained from the schedules, the officers concerned should be addressed to furnish the required particulars through the Treasuries where pay for the period concerned was drawn.

On transfer of such officers from one district to another an extract from the register in Form I.T.48 relating to the year should be attached to the Last Pay Certificate.

In regard to pensions, the Treasury Officers are even now submitting annual returns, and these should be arranged to be prepared in two parts in future.

For the distribution of the tax collected as between 'Federal' and 'other emoluments' the Treasury Officers will be mainly guided by the classification indicated by the drawing officers in the bills for pay and allowances. In respect of tax received in cash due to reassessments by Incometax Officers the classifications indicated in the challans should be adopted.

....

S.N. 14 (Pwc II)

22

D.Dis. No.586-I.T./38.

CENTRAL BOARD OF REVENUE

New Delhi, the 24th January 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
7 FEB. 1939
Diary No. 1303
File No.

RD 31/39

120
55(F)
4

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,
Madras.

Sir,

Form I.T. 48 - Disbursing Officers - Distribution of, to - Arrangement regarding.

With reference to paragraph 2 of your letter No.549/37 dated the 1st November 1938, I am directed to say that for the present the distribution of the form I.T. 48 to all Disbursing Officers may be made by the Income Tax Officers in whose jurisdiction they operate. A report on the working of this arrangement, after it has been tried for a year, may be made to the Board to enable it to consider whether any change is called for.

I have the honour to be,

Sir,

Your most obedient servant,

T.S. Pillay.

First Secretary, Central Board of Revenue.

Copy with an extract from the letter from the Commissioner of Income-tax, Madras forwarded to other Commissioners of Income-tax for information and necessary action.

By order, etc.,

30-1-'39.

First Secretary, Central Board of Revenue.

J.P.30/1.

1.5.30/J.

Fleet Director, Central Board of Trade,
31 I - 39.

Sir,

Your post office letter

Communications. The one-six for information

Communications. Type letter

Necessary action.

By order, etc.,

Secretary, Central Board of Trade.

Sir,

Your post office letter received

[illegible] for

[illegible] Should it become [illegible]

[illegible] desired. [illegible]

[illegible] I.T. 38 [illegible] Directors in whose duty [illegible]

[illegible] for the present the distribution of the

[illegible] dated the 1st November 1938. I am directed

[illegible] Your letter

[illegible] Distribution

[illegible] Diagram

[illegible] Diagram [illegible]

[illegible] Diagram not of [illegible]

[illegible] Copies [illegible]

[illegible] Fleet Director, Central Board of Trade,

D.O.R.Dis.No.589-I.T./38.

CENTRAL BOARD OF REVENUE.

New Delhi, the 2nd February 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
10 FEB. 1939
Diary No. 1422
File No.

My dear Clarke,

Assessees - Appearance by authorised representative - Power of Attorney - Form I.T.103 and letters of authorisation - Paragraph 142, Income-tax Manual.
Mullan's D.O.No. 803/38, dated the 8th November 1938.

The question whether Form I.T. 103 was a power of attorney (which ought to be stamped) has been referred to the Government of India and answered in the affirmative. It is immaterial whether the words in the Form "His explanation and statement will be binding on me" are omitted or not. Statements made and explanations given by the person attending on behalf of an assessee in the course of assessment proceedings are clearly binding on the assessee, even if the instrument authorising such person to attend does not expressly say so. There is no substantial difference between a Vakalatnama or Mukhtarnama and the authorisation envisaged in section 61, and that being so, if the authorisation happens to be in favour of a lawyer it would be a Vakalatnama and chargeable as such with court-fees under Article 10 of Schedule II of the Court-Fees Act, 1870, and would, therefore, be excluded from the definition of a power of attorney by virtue of the words included within brackets in that definition. If it is in favour of any person other than a lawyer it would fall within that definition and would as such be chargeable with appropriate stamp duty.

Yours sincerely,

J.F. Sheehy,

E.W. Clarke, Esquire,
Commissioner of Income-tax, Madras.

Copy forwarded to other Commissioners of Income-tax.

By order, etc.,

4.2.39

First Secretary, Central Board of Revenue.

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 25/2/ 1939.

R.Dis.No. F. 31/39 / R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of Income-tax, C.& M. Station, Bangalore, for information and necessary -- action, ~~in continuation of~~ with reference to the correspondence ending with his letter No. I.T.GL.165, dated the 18th -- October 1938.

S.N.72
P.113
F.60/38
1F

for information, ~~in continuation of~~ / with reference to ~~the correspondence ending with his~~ Memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order,

20/2/39.

For *Secretary* ~~Asst. Secy.~~ *to the Resident.* & Commr. of Income-tax.

LIST OF PAPERS.

13
S.N.9
PUG I)

Letter from the Central Board of Revenue C.No.109-I.T/38.(K.W.I), dated the 21st January 1939, with enclosure.

16.2.39 18.2.39

1621—2-4-1935—2,000—RPB.

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 25/2 *1939.*

D.Dis. No. F. 31/39 / R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commissioner of Income-tax, C.& M. Station, Bangalore, for information and necessary -- action.

for information, ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with his~~ Memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order,

For *Secretary* ~~xxxxxxxxxx~~ *to the Resident.* & Commr. of Income-tax.

20/2

LIST OF PAPERS.

Cl. to S.N.10 (PUC II) Extract from letter No. 549/37 dated the 1st Novr. 1938, from the Commissioner of Income-tax, Madras.

S.N. ~~10~~ 11 (PUC II) Letter from the Central Board of Revenue to the Commr. of -- Income-tax, Madras, D.Dis.No.586-I.T/38, dated the 24th January 1939.

16.2.39 18.2.39

1621—2-4-1935—2,000—RPB.

S.N. 11 3 Grays
Draft

27

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 25/2 *1939.*

D.Dis.No. F. 31/39 / R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of Income-tax, C.& M. Station, Bangalore, for information.

for information, in continuation of / with reference to ~~the correspondence ending with his~~ Memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order,

For *Secretary* / ~~Asst. Secy.~~ *to the Resident.* & Commr. of Income-tax.

LIST OF PAPERS.

Income-tax,

S.N.11 (PUC. III) D.O. letter from the Central Board of Revenue to the Commr. of Madras, R.Dis.No.589-I.T/38, dated the 2nd February 1939.

16.2.39 18.2.39

1621—2-4-1935—2,000—RPB.

S N 20

21-2-39

OFFICE OF THE
[illegible] THE RESIDENT
[illegible]SORE, BANGALORE.
20 FEB. [illegible]
Diary No. 1791.
File No. RD 31-39

R.Dis.No.596-I.T./38.

CENTRAL BOARD OF REVENUE.

New Delhi, the 10th February 1939.

.....

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,
Central and United Provinces.

Sir,

Regimental funds in a unit - whether liable to be assessed jointly or separately - Deposit Funds - Liability to income-tax.

I am directed to enclose a copy of a letter No.85325/A-2, dated the 22nd October 1938, on the subject noted above, from the General Officer Commanding-in-Chief, Eastern Command addressed to the Adjutant General in India. The Board has considered the points raised therein and has decided that if the various regimental funds in a unit are not identical but are separately constituted, the income of the funds should not be lumped together for determining the total taxable income but each fund should be treated separately for the purpose of assessment.

2. It appears to the Board that the Deposit Fund referred to in the letter quoted above, is on

the.....

the same footing as the Regimental Thrift and Savings Funds, the income of which is exempted under Finance Department (Central Revenues) Notification No.23, dated the 4th July 1936.

3. The assessment of the funds of the 2/3rd Q.A.O. Gurkha Rifles should, if necessary, be revised accordingly.

I have the honour to be,

Sir,

Your most obedient servant,

T.S. Pillay.

First Secretary, Central Board of Revenue.

Copy, (with enclosure) forwarded to all Commissioners of Income-tax *(with reference to his letter No.5754, dated the 21st January 1939).

Ø except Commissioner of Income-tax, Punjab.

* Commissioner of Income-tax, Punjab only.

By order, etc.,

14-2.39

First Secretary, Central Board of Revenue.

Copy of letter No.85325/A-2, dated the 22nd October 1938, from the General Officer Commanding-in-Chief, Eastern Command, Nainital, to the Adjutant General in India, Army Headquarters, New Delhi.

.....

Income-tax on regimental funds - 2/3rd Gurkha Rifles.

.....

The Income-tax Officer, Meerut Circle, assessed the income from investments of the following funds of the 2/3rd Q.A.O. Gurkha Rifles:-

(i) Provident Fund.

(ii) Widows Fund.

(iii) Child Welfare Fund.
(iV) Pipe Band Fund.
(V) Deposit Fund.

On appeal the Assistant Commissioner of Income-tax, Meerut, has ruled that the first three funds are not liable and that the last two are liable to income-tax.

Pipe Band Fund

2. The assets of this fund consist of compulsory subscriptions from British Officers, the Government allowance and profits earned by the investment thereof in Government securities. The Band is used solely for military purposes and the income cannot be used for any other purpose than the upkeep of the band. If treated separately this fund excapes tax because the total income from it would be less than Rs.2,000/- per annum. But the Assistant Commissioner has ruled that the income from the various regimental funds which are liable

to.....

to tax should be assessed jointly as they belong to one particular regiment and the securities stand in the name of the Officer Commanding and not in the name of each fund.

Whether such funds should be assessed individually or collectively would appear to rest upon the definition of the term "Assessee" used in the Act. It is considered that such regimental funds should not be treated as one although they are under the control of one officer i.e. the Commanding Officer.

Deposit Fund.

3. With regard to this fund the Assistant Commissioner has ruled as follows:-

"The depost fund cannot be called a service fund for the money is paid back on the request of the contributors. The Gurkha Officers generally deposit some money and take it when they proceed on leave. It is not also a Thrift Fund for it acts like a Bank. It is on the same footing as the Canteen Fund and the Clothing Repairs Fund. The income of these two funds is taxable and, therefore, the income of the Deposit Fund is also taxable".

Men make monthly contributions of varying sums to this fund. Balances may be withdrawn at any time, but usually when proceeding on furlough or pension. It is clearly a thrift fund and the fact that it acts like a bank does not, it is considered, constitute a justification that the income should become taxable.

4.....

4. The matter was further referred to the Commissioner of Income-tax, Central and United Provinces, Lucknow, but that officer has replied that he agrees with the orders passed by the Assistant Commissioner.

5. It is realised that one way of securing exemption from tax would be to invest the funds in tax free Government securities, but it is hoped that you may be able to secure a ruling from the Central Board of Revenue that -

(a) though the O.C. of a unit, on account of military requirements, controls the various regimental funds, they should not be assessed jointly.

(b) the Deposit Fund is a thrift fund within the meaning of Gazette of India Notification No.23-Income-tax, dated the 4th July 1936.

S.N. 2 drafts 31 & 31 I

(34

Res. Mysore 39.

Issued 10/3

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 10 15 March 1939.

R.Dis. No. F. 31/39
R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commissioner of Income-tax, C.& M. Station, Bangalore , for information and necessary action.

for information, in continuation of / with reference to ~~the correspondence~~ ending with his memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order, etc.,

28/2

For *Secretary* / ~~Asst Secy~~ *to the Resident.* & Commr. of Income-tax.

LIST OF PAPERS.

S.N.19 (PUC I) — Letter from the Commr. of Income-tax, Bombay Presidency, Sind & Baluchistan, No. T.C.237/38, dated 6th February 1939, with enclosures.

25-2-39

1687—12-3-1937—2,000—RPB.

S.N 22 drafts

(35

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 4/10 March 1939.

R.Dis. No. F. 31/39
R. O. I

A copy of the undermentioned paper(s) is forwarded to the Asst. Commr. of Income-tax, C.& M. Station, Bangalore, for information.

for information, ~~in continuation of~~ / ~~with reference to~~ the ~~correspondence ending with~~ his

~~memorandum~~ / ~~letter~~ / ~~endorsement~~ from

~~No.~~ ~~dated the~~

By order, etc.,

For *Secretary* / ~~Asst. Secy.~~ *to the Resident.* & Commr. of Income-tax.

LIST OF PAPERS.

S.N. 20 (PUC II) ~~Letter~~ Letter from the Central Board of Revenue to the Commr. of Income-tax, Central and United Provinces, R.Dis. No. 596-I.T/38, dated the 10th February 1939, with enclosure.

25-2-39

1687—12-3-1937—2,000—RPB.

1A 1572/

S.N. 2-3 dec A 15.3.39

(36

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE

New Delhi, the 10th March 1939.

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax including

the Special Investigating Officer,

Bombay.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 MAR. 1939
Diary No. 2712
File No.....

RD 31/39

Sir,

Income-tax and Supertax - Deduction at source from salaries - Memorandum of instructions.

I am directed to enclose a copy of a Memorandum, on the subject noted above, for your information and to say that the Board will be glad to receive your comments, if any, at an early date.

I have the honour to be,

Sir,

Your most obedient servant,

11.3.39

First Secretary, Central Board of Revenue.

J.P.10/3.

MEMORANDUM OF INSTRUCTIONS FOR THE DEDUCTION OF INCOMETAX AND SUPERTAX EVERY MONTH FROM SALARIES ETC.

-o-

1. Important changes in the Incometax law:

The attention of all persons responsible for paying income chargeable under the head "salaries" is invited to the changes introduced by the recent amendments to section 4, 7, 10 and 18 of the Indian Incometax Act, 1922, and to the withdrawal of the exemption from tax on leave salaries and leave allowances paid in the United Kingdom or in any Colony.

2. Basis of charge:

Previously the basis of assessment in respect of any amount chargeable under "salaries" was the actual amount paid, but this has now been changed and the present basis is the salary paid to a person or due to him, whether paid or not. An advance by way of loan or otherwise of income chargeable under the head "salaries" is deemed to be salary due on the date when the advance is received.

3. Supertax also to be deducted by employer:

The responsibility for deducting tax at the time of payment of salary has been extended to cover supertax as well as incometax.

4. Rates of tax for persons resident in British India:

In the case of an employee, who is resident in British India, incometax and supertax must be deducted at a rate representing the average of the rates applicable to his estimated total income under the head "salaries". Special attention is drawn to the fact that the system of rates for incometax ..

incometax has been changed and now follows that which has always been in force for supertax.

The rates of incometax for the year commencing on 1st April 1940 (which are applicable to all deductions to be made on or after that date) are (except for companies and for cases t which the maximum rate of tax applies):-

Rs.		Rate
First 1,500	of total income ...	Nil
Next 3,500	" " " ...	9 pies in the rupee
" 5,000	" " "	1 anna 3 " "
" 5,000	" " "	2 annas "
Balance	" " "	2 annas 6 pies "

No tax is payable on incomes not exceeding Rs.2,000; and tax payable on all incomes of Rs.2,000 or more is to be restricted to half of the excess of the income over Rs.2,000.

The rates of supertax are (except for comapnies):-

Rs.		Rate
First	25,000 of total income	Nil.
Next	10,000 " " "	1 anna in the rupee
Next	20,000 " " "	2 annas " "
Next	70,000 " " "	3 " " "
Next	75,000 " " "	4 " " "
Next	1,50,000 " " "	5 " " "
Next	1,50,000 " " "	6 " " "
Balance	" " "	7 " " "

N.B. For examples showing the manner in which the tax deductible is computed see paragraph 14.

5. Non-resident employees:

In the case of an employee, who is not resident in British India, incometax should be deducted at the time of payment at the maximum rate and supertax at the rate or rates applicable to his estimated income under "salaries"

6. Salaries (and leave salary) paid abroad but earned in British India:

The salary (including leave pay but excluding pension payable outside British India) of an employee whether resident or non-resident, is deemed to accrue or arise in British India, wherever paid, if it is earned in British India; also where "salary" earned in British India is payable outside British India no allowance in respect of that payment will be made in computing the income of the employer, unless tax has been paid thereon or deducted therefrom under Section 18.

7. Withdrawal of exemption of leave salary paid abroad:

The notifications under sub-section (1) of section 60 of the Indian Incometax Act, exempting from tax leave salaries and leave allowances paid in the United Kingdom or in any Colony to Judges of the High Court, Chief Courts, etc., officers of Government and of local authorities to employees of companies and of private employers, have now been rescinded. Instructions in regard to the consequential arrangements to be made for deducting tax on such leave salaries and leave allowances in the case of Government servants are being issued. Other employers are required to deduct tax in accordance with paragraphs 4, 5, and 6 above.

XVIII SN. 29 infra

8. Failure to deduct tax or to pay over the tax deducted:

Any employer who does not deduct tax or after deducting fails to pay the tax as required will without prejudice to any other consequences which

which he may incur, be deemed to be in default personally in respect of the tax.

9. Items included under "salaries" :

The following payments should be included under the head "salaries" for the purpose of deducting tax at source :-

i) House rent allowance :

(Note. The value of rent-free quarters is also taxable under section 7. Though the employer may not be legally bound to deduct tax from it, it will usually be more convenient to include this amount in the amount upon which the tax to be deducted from salary is computed and arrangements may be made accordingly).

ii) Any bonus, gratuity, fees, commission, perquisites or other allowance or profit in lieu of or in addition to salary;

iii) Incometax paid by the employer on behalf of the employees in respect of the salary,

iv) Payments due or received by an employee in connection with the termination of his employment consisting of employer's contribution and interest, unless the payment is made solely as compensation for the loss of employment and not by way of remuneration for past services. This does not, however, apply to:

(a) any payment from a provident fund to which the Provident Funds Act, 1925, appli

(b) any payment from a recognised provident fund under Chapter IXA, if such payment is exempted from payment of incometax under that chapter;

(c) any payment from an approved superannuation fund Chapter IXB made on the death of a beneficiary or in lieu of, or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the

EXAMPLE 1.

Income - Rs.2400 per annum. Life insurance premium - Rs150 per annum.

Incometax payable per annum.

Rs. 1500	@ nil	nil
Rs. 900	@ 9 pies	Rs.42- 3 - 0
Rs. 2400		Rs.42- 3 - 0

Average rate of tax = $\frac{42}{2400}$ = 3.37 pies.

Life insurance relief - Rs.150 @3.37 pies	Rs. 7 -1 - 0
Net yearly tax	Rs.35 -2 - 0
Tax to be deducted from the monthly income of Rs. 200 is therefore-	Rs. 2-15 - 0

EXAMPLE 2.

Monthly income - Rs 3500. Rs.42,000 per annum.

Provident fund contribution-Rs.5,000
Life insurance premium - Rs 4,000 } Rs.9000. Restricted to 1/6th of salary and to Rs.6000 in the aggregate (If the assessee were a Hindu Undivided Family the limit would be Rs. 12,000).

Incometax payable:

First	Rs 1,500	@ Nil ..		Nil.
Next	Rs 3,500	@ 9 pies ..	Rs.	164 - 1 - 0
"	Rs. 5,000	@ 1 anna 3 pies	Rs.	390 -10 - 0
"	Rs. 5,000	@ 2 annas ..	Rs.	625 - 0 - 0
"	Rs.27,000	@ 2 annas 6 pies	Rs.	4218- 12 - 0
Total	Rs.42,000		Rs.	5398 - 7 - 0

Average rate of income = $\frac{5398}{42000}$ = 24.68 pies.

Provident fund and life insurance relief Rs. 6000 @ 24.68 pies	Rs. 771 - 4 - 0
Net annual incometax	Rs. 4627 - 3 - 0
Monthly deduction of incometax $\frac{4627-3}{12}$	Rs. 385 -10 - 0

Supertax payable: .....

Supertax payable:

First	Rs. 25,000	.. ..	Nil
Next	Rs. 10,000	@ 1 anna ..	Rs. 625 - 0 - 0
"	Rs. 7,000	@ 2 annas ..	Rs. 875 - 0 - 0
Total	Rs. 42,000	..	Rs. 1500 - 0 - 0

(No deduction of supertax is to be given in respect of Provident Fund contributions or life insurance premiums)

Monthly supertax payable = $\frac{1500}{12}$ = Rs. 125 - 0 - 0

Monthly salary		Rs. 3500
Deduct Incometax	Rs. 385-10	
Supertax	125- 0	
		Rs. 510 - 10
Net payment each month		Rs. 2989 - 6

Note: In the case of life insurance policies which have been in existence during the whole of the preceding year, the person paying the salary should not insist on production of the premium receipts unless he has reason to believe that the policy has expired or been surrendered. A proportionate allowance should be given each month based on the total premiums payable within the year. Where a new policy has been taken out the first premium receipt should be called for and the allowance given in the next deduction of incometax.

F.No.38(3)-I.T./39.

Central Board of Revenue.

New Delhi, the 17th March 1939.

...

From

T.L. Pilley, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax

including the Special Investigation

Officer, Bombay.

Sir,

Income-tax and Supertax - Deduction of arrears from salaries - Consolidation of instructions.

...

In continuation of my letter F.No.38(3)-I.T./39, dated the 14th March 1939, on the above subject, I am directed to enclose a copy of a corrigendum slip to the memorandum forwarded therewith.

I have the honour to be,

Sir,

Your most obedient servant,

K. B. Lall

16-3-39.

First Secretary, Central Board of Revenue.

OFFICE
Dte. No. 3032.
File No.

27/2
F.16/1
-39

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CENTRAL BOARD OF REVENUE.

The following corrections may be made in the 'Memorandum of Instructions for the deduction of income-tax and supertax every month from salaries etc.' forwarded with Board's U.O.No. 35(3) I.T/39 dated 13th March 1939 —

(1) Paragraph 4 (page 2) :

For '1st April 1940' substitute '1st April 1939'.

(2) Paragraph 14 (page 7)

(i) For Example No.1 substitute the following —

" EXAMPLE 1.

Income - Rs.2400 per annum. Life insurance premium - Rs.150 per annum.

Incometax payable per annum.

Rs.1500	@ nil	nil
Rs. 900	@ 9 pies	Rs. 42- 3- 0
Rs.2400		Rs. 42- 3- 0

Average rate of tax = $\frac{42}{2400}$ = 3.37 pies

Life insurance relief - Rs.150 @ 3.37 pies	Rs. 2-10- 0
Net yearly tax	Rs. 39- 9- 0
Tax to be deducted from the monthly income of Rs.200 is therefore-	Rs. 3- 5- 0

"

(ii) In Example 2, under the heading 'Incometax payable' for the

words

S.N.25

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
20 MAR. 1939
Diary No. 2949
File No. RO 31/39.

Circular No. 1 of 1939.

R.Dis. No.35(3)-I.T./39

CENTRAL BOARD OF REVENUE

New Delhi, the 13th March 1939.

CIRCULAR.

CERTIFICATE TO DEDUCT TAX AT LESS THAN THE MAXIMUM RATE FROM INTEREST ON SECURITIES.

As the rates of Income-tax for the year commencing on 1st April 1939 are materially different from those for the previous year, all certificates issued on Form I.T.33 under the proviso to subsection (3) of section 18 of the Income-tax Act, 1922, are to be reviewed before the date of the first payment of interest after 31st March 1939.

2. Where the total income for assessment for 1938/39 (based on the income of 1937/38) is less than Rs.2,000, a certificate to deduct no income-tax need not be withdrawn or revised. Where such total income falls between the limits referred to below deduction of tax should be authorised at the rates shown against these limits:-

Incomes between:-	Rate of income-tax:-
Rs.2,000 and Rs. 5,000	9 pies.
Rs.5,000 and Rs.10,000	1 anna 3 pies.
Rs10,000 and Rs.15,000	2 annas.

All certificates in respect of incomes above Rs.15,000 should be withdrawn.

3. These instructions apply also to the payment of dividends on shares of the Reserve Bank of India.

First Secretary, Central Board of Revenue.

Copy forwarded to All Commissioners of Income-tax including the Special Investigating Officer, Bombay.

By order, etc.,

First Secretary, Central Board of Revenue.

P.14/3.

Mr. V.S.M

S N.26

(45

1 of 2

C.No.28(6)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 13th March 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
.1939
Diary No. 2953
File No. RD 31/35.

From

T.S.Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,

including the Special Investigating Officer,
Bombay.

Sir,

Indian Income-tax (Amendment) Act, 1939 - Statutory forms - Use of -.

I am directed to say that owing to the extensive changes made in the income-tax law by the Indian Income-tax (Amendment) Act, 1939, a number of forms will be revised and that some of the existing forms (e.g. Return of total income for companies, Return of total income for other persons, Annual return under section 21 and monthly return of salaries) will not have statutory force on or after the 1st April 1939 and must in no circumstances be used. The new forms and instructions in connection with their use will be issued as soon as possible.

2. I am to request that necessary instructions may be issued to all officers concerned. In case of doubt the matter should be referred to the Board for orders.

I have the honour to be,
Sir,
Your most obedient servant,

20 Dec 15.3.39

First Secretary, Central Board of Revenue.

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Draft-II

S-N 27

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Res. Mysore 39.

Issue
KL
27.3.39.

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OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 29th April *1939*.

R.Dis. F. 31-39
No. ~~RXOXAA~~
Judl.

A copy of the undermentioned paper~~s~~ is forwarded to the Asst.Commissioner~~of~~ of Income-tax,C & M Station,Bangalore, ~~for information~~, with the request that his comments, if any, may be communicated to this Residency at an early date.

for information, ~~in continuation of~~ / ~~with reference to~~ the ~~correspondence ending with his~~

~~memorandum~~ / ~~letter~~ / ~~endorsement~~ from

~~No.~~ ~~dated the~~

By order, etc.,

27.3

for *Secretary* / ~~*Asst. Secy*~~ *to the Resident.*
& Commr. of Income-tax.

LIST OF PAPERS.

S.N.23 p.u.c.I — 1) Letter from the Central Board of Revenue C.No.35(3)-I.T./39, dated the 10th March 1939, with enclosures.

~~S~~.N.24 p.u.c.II — 2) -do-, dated the 17th March 1939, with enclosure.

23/3/39

KL
25.3.39.

1687—12-3-1937—2,000—RPR.

S. N. 28

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Issued 29/4/39 Ad.

Res. Mysore 39.

Issue Ad 27.3.39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 29th April 1939.

R. Dis No. F. 31-39 Ure 3-

~~R. O.~~

Judl.

A copy of the undermentioned paper(s) is forwarded to the Assistant Commissioner of Income-tax, C & M Station, Bangalore, for information and guidance. The Pol. Deptt. have been requested to apply the Income-tax (Amendment) Act, 1939, to the C. & M. Station of Bangalore from the 1st April 1939.

Tel. issued not followed up

for information, ~~in continuation of / with reference to~~ the ~~correspondence ending with his~~ ~~memorandum / letter / endorsement~~ from

~~No.~~ ~~dated the~~

By order, etc.,

27.3.

for *Secretary* ~~*Asst. Secy.*~~ *to the Resident.*

& Commr. of Income-tax.

LIST OF PAPERS.

S.N.25 p.u.c.III 1) Circular of the Central Board of Revenue No.1 of 1939, dated the 13th March 1939.

S.N.26 p.u.c.IV. 2) Letter from the Central Board of Revenue C.No.28(6)-I.T./39, dated the 13th March 1939.

23/3/39 Ad 25.3.39

1687—12-3-1937—2.000—RPB.

Mr. V.T.M

OFFICE OF THE
HIGH COMMISSIONER
INDIA, BANGALORE.
Diary No. 3135
File No.
RAD 31/35

C.No.351-I.T./37.

CENTRAL BOARD OF REVENUE.

New Delhi, the 15th March 1939.

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Income-tax Enquiry Report, 1936 - Chapter I, section 6(c) - Taxation of leave salaries paid outside British India.

I am directed to say that the Government of India have decided to withdraw the exemption in respect of leave salaries paid abroad with effect from 1st April 1939 and are considering the question of providing machinery for the collection of tax. In the case of the non-official community the provision in sections 10(4)(a) and 12(2)(c) for disallowing in the employer's assessment any "payment which is chargeable under the head 'Salaries' if it is payable without British India and tax has not been paid thereon nor deducted therefrom under section 18" will be sufficient incentive to the employer to deduct the tax since if he does not do so he will have to pay much more tax than if he had made the deduction. In regard to Government servants steps are being taken to get the Service Rules amended so as to make the leave salary paid abroad subject to deduction of income-tax and super-tax therefrom. There is, however, one class of salary-earners

Vide Finance Dept. notifn No. F.7(14)-R.I/39 dt 18.5.1939.

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viz., employees of Municipalities, Port Trusts and other Local authorities for whom no provision in regard to deduction of tax at source has been made. In regard to these employees I am to request you to ask the various authorities in your jurisdiction to co-operate with Government in this matter and arrange with them that only such sums should be made available to their employees for receipt abroad as represent the leave pay less tax at the rates applicable thereto.

I have the honour to be,

Sir,

Your most obedient servant,

Gray
17-3-39.

First Secretary, Central Board of Revenue.

R.16/3.

Res. Mysore 39.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 17th April 1939.

R.Dis. F. 31-39
No. ~~R.X(0).~~
Judl.

A copy of the undermentioned paper(s) is forwarded to the Assistant Commissioner of Income-tax, C & M Station, Bangalore, for information and guidance.

for information, in continuation of / with reference to the correspondence ~~ending with his~~ Memorandum / letter / endorsement from

~~No.~~ ~~dated the~~

By order,

for *Secretary* / ~~Asst. Secy.~~ *to the Resident.*
& Comm. of Income-tax.

LIST OF PAPERS.

S.N.1 p.u.c — Letter from the Central Board of Revenue C.No.351-I.T./37, dated the 15th March 1939

1621—2-4-1935—2,000—RPB.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE
21 APR. 1939
Diary No. 4139
File No. 3D 60

OFFICE OF THE ACCOUNTANT-GENERAL, MADRAS.

Fort St. George, 18th April 1939.

Enclosures.
Two

No. T.M.3-1-83/39-40.

FROM

THE ACCOUNTANT GENERAL,

MADRAS, (T.M.Section).

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

The Secretary to the Chief Commissioner of Coorg,
Bangalore.

SIR,

Subject:- Refund - Incometax - Money orders - Remittances of - through post offices.

--

I have the honour to invite a reference to letter R.Dis.No. 438-I.T/37, dated 19-12-1938, on the subject noted above of the Central Board of Revenue, a copy of which has been endorsed to Commissioners of Incometax, Minor Administrations for information. A copy of the instructions issued to Treasury Officers in this connection is enclosed for your information.

It is requested that necessary instructions may be issued to Incometax Officers under your control who are authorised to make refunds by money orders to render to this office by the 5th of the succeeding month a departmental account in the form enclosed in respect of cheques drawn by them in the previous month. Please see, in this connection, paras 2 and 3 of letter R.Dis.438.I-T/37, dated 19-12-1938, from the Government of India, Finance Department, (Central Revenues) to all Commissioners of Incometax. The accounts should be accompanied by the following documents:-

1. List of payments with vouchers,
2. Schedule of receipts,
3. List of cheques issued during the month,

and 4. Schedule of settlement with Treasuries with a consolidated treasury receipt and a certificate of cheques paid.

2. A copy of the instructions issued to Incometax Officers may kindly be sent to this office. They may be asked to intimate to this office their requirements of cheque books to facilitate supply through the Treasury Officer concerned.

I have the honour to be,

Sir,

Your obedient servant,

DEPUTY ACCOUNTANT GENERAL.

smk.

Account of the Income Tax Officer _____ Circle for the month of _____ 1939.

Receipts.

Receipt Heads.	Amount. Rs.	a.	p.	Total. Rs.	a.	p.	Figures passed by the A.G. Rs.	a.	p.
Cheques and Bills.									
Departmental Cheques — Income Tax Officers.									
(Total of cheques drawn during the month.)									
IV Taxes on Income - Ordinary Collections - Other - Collections.									
(Other heads may be opened where necessary to accommodate receipts on account of undisbursed money orders relating to refunds authorised in - previous year).									
Balance decreased* (a)									
Opening Balance									
Closing Balance									
Total									

(15)

Account of the Income-Tax Officer _____ Circle

for the month of _____ 1939.

D I S B U R S E M E N T S.

No. & Amount of Vouchers.	Charge heads.	Amount. Rs. a. p.	Total. Rs. a. p.	Figures passed by the .... Accountant General Rs. a. p.
	III Corporation Tax - Refunds.			
	IV Taxes on Income other than Corporation Tax			
	Income-tax Refunds			
	(a) Ordinary collections Taxes paid by Companies.			
	(b) Deductions by Govt. from salaries and pensions.			
	Taxes in respect of Central (Federal) emoluments.			
	(b) Payment on ~~account~~ account of double Income-tax Relief granted to Companies.			
	(d) Other Refunds.			
	Super-Tax - Refunds.			
	Super-tax in respect of Central (Federal) emoluments.			
	Other collections.			
	Total Refunds IV Taxes on Income.			
	Cash Remittances etc., between officers rendering accounts to the same Accountant General - Miscellaneous Remittances - Income-Tax Remittances. (b)			
	Balance increased*(a)			
	Opening balance ------			
	Closing balance ------			
	Total			

Certified that the cash balance has been verified and found to be correct.

Station _____

Dated. _____

INCOME-TAX OFFICER.

4/39

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Office of the Accountant General, Madras,
Fort St.George, Dated 17th April 1939.
No.T.M.3-1-78/39-40.

From

The Accountant General,
Madras, (T.M.Section).

To

All Treasury Officers (including Coorg, Bangalore and Trivendrum).

Subject:- Refunds of income-tax by money orders - Issue of Cheques by Income-Tax Officers.

Sir,

I have the honour to invite a reference to Rule 9 of Appendix 2 to Civil Account Code, Volume I, and to state that the existing procedure laid down therein for payment of income-tax refunds by money order has been modified by the Government of India as indicated below.

Instead of sending the money order forms along with the refund voucher to the Treasury Officers or to the Bank as at present, the Income-Tax Officer will send the money order forms only duly completed to the post office direct along with a cheque in favour of the Postmaster concerned to cover the total amount of the refund and the money order commission thereon. The refund vouchers will be retained by the Income-Tax Officer for submission to this office along with his accounts relating to the refunds made by him by cheques. The Post Office will accept the cheques in lieu of cash and arrange to pay the amount of the refund to the payee and cash the cheque at the Treasury or the Bank.

2. These cheques, when paid to the post office at the Treasury or the Bank, should be debited to "Cheques and Bills - Departmental cheques - Incometax Officers" to be opened on page 29 of Sub Account No.28 below the head "Suspense Accounts".

The amounts of money orders returned undisbursed will be remitted by the Incometax Officers into the Treasury.

Such amounts should be credited to a new detailed head "Income-tax remittances" which may be opened under "Cash Remittances between officers rendering accounts to the same Accountant General - Miscellaneous remittances". The Commissioner of Income-tax has been asked to issue necessary instructions to the Income-tax Officers to indicate this classification in the chalans concerned.

3. The new procedure will take effect from the accounts for May 1939 or the date of supply of cheque books to Incometax Officers, whichever is latter. Necessary instructions may be issued to all Sub-Treasury Officers under your control.

The cheque books required by the Income-Tax Officers will be supplied to them by the Treasuries with which they deal and the cheque books will be supplied to the Treasury Officers by this office as early as possible.

4. The existing procedure will continue in regard to payment of income-tax refund orders, otherwise than by money order.

I have the honour to be,

Sir,

Your obedient servant,

DEPUTY ACCOUNTANT GENERAL.

smk.

D.A.Dis.No.645-I.T./38.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE
PRESIDENT
BANGALORE
4176
File No. RA 31/39

New Delhi, the 4th April 1939.

A copy of the undermentioned papers is forwarded to all* Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay), for information.

* except Commissioner of Income-tax, B. & O.

By order, etc.,

First Secretary, Central Board of Revenue.

List of papers forwarded.

Board's letter to the Commissioner of Income-tax, Bihar and Orissa, D.A.Dis.No.645-I.T./38, dated the 9th January 1939, with enclosure.

ICP.
12/4.

Copy of letter D.A.Dis.No.645-I.T./38, dated the 9th January 1939, from the Second Secretary, Central Board of Revenue, New Delhi, to the Commissioner of Income-tax, Bihar and Orissa.

Allowances in assessing business income - Depreciation allowance - Railway sidings in sugar mills - Rate applicable - The Bihar Chamber of Commerce, Patna.

I am directed to forward a copy of a letter No.733, dated the 9th December 1938, from the Bihar Chamber of Commerce and to say that the Central Board of Revenue ruled in 1926 that jetties, railway sidings and tramways come under the heading "plant". Consequently where a special rate has not been allowed (as it has been in the case of railway sidings and tramways in mines and quarries) depreciation should be allowed on them at the general rate of 5% for 'plant' in item 2 of the Table in Rule 8. If, as it appears from the Chamber's letter, no depreciation is at present allowed on railway sidings of sugar mills, instructions in the above sense may be issued to the Income-tax Officers concerned and the Bihar Chamber of Commerce informed accordingly.

S.N-33

Mr. N.S.V

SPM

Circular No.4 of 1939.
C.No.31(9)-I.T./39.
Central Board of Revenue.

New Delhi, the 11th April 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
27 APR. 1939
Diary No. 4336
File No. R031/39

...

C I R C U L A R.

Date upon which the various provisions of the Indian Income-tax (Amendment) Act, 1939, come into force.

...

Detailed notes (for the guidance of officers) on the various provisions of the Indian Income-tax (Amendment) Act, 1939, will be supplied in the course of the next three or four weeks, but in the meantime the attention of all officers should be drawn to the contents of this circular so that no invalid or improper action, whether in relation to pending proceedings, fresh proceedings under section 34, or proceedings for assessment for the year 1939/40, is taken.

Part I of the Amending Act, which contains all amendments other than those relating to and consequent upon the setting up of an Appellate Tribunal, has come into force on the 1st April 1939 subject to the proviso that the amendments to subclauses (vi) and (vii) of subsection (2) of section 10 of the 1922 Act are not to take effect earlier than the 1st April 1940. Part II is to come into force on such subsequent date, not being later than the 1st April 1941, as the Central Government may appoint, but it is not anticipated that it will come into force before the 1st April 1941.

Subject ..

Subject to the above, the provisions of Part I of the Amending Act, which relate to changes in the incidence of taxation and to the method of computing income, are effective in respect of all assessments made for the year 1939/40 (on the income of 1938/39) and for subsequent years. Those provisions of Part I of the Amending Act which make administrative changes (e.g., the appointment of Appellate and Inspecting Assistant Commissioners to perform separate functions) have come into force from the 1st of April 1939 for all purposes, including the completion of existing proceedings relating to assessments earlier than the assessments for the year 1939/40. It should be noted therefore that no person who has been appointed as an Inspecting Assistant Commissioner may on or after the 1st of April 1939 make any appellate order and that the new jurisdictions for Appellate Assistant Commissioners come into force as on that day for all the purposes of the Act, and that they should not on or after that date do anything which is inconsistent with their restricted functions under the amended Act. In any case of doubt the matter should be referred immediately to the Central Board of Revenue through the Commissioner.

Lahiri

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax
including Commissioner of Income-tax
(Central)

The Income-tax Adviser to the Board.

Mr. N.S.V

C.N-34

14

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
25 APR. 1939
Diary No. 4246
File No.
RD 31/39

Circular No.5 of 1939.

D.Dis.No.28(9)-I.T./39.

Central Board of Revenue.

New Delhi, the 12th April 1939.

...

CIRCULAR.

Instructions with regard to the work in connection with the annual returns of salaries etc., paid in the year ending 31st March 1939 :-

Under the Finance Act 1939 the rates of tax (both income-tax and supertax) chargeable for the year 1939-1940 on incomes from salaries or interest on securities are the rates of the year 1938-39, unless the income under the head 'salaries' or 'interest on securities' or from dividends is not more than half the total income of the assessee in which case the new rates laid down in the Finance Act 1939 are to be applied to the whole income including that part derived from sources other than interest on securities, salaries or dividends and assessment or refund is to be made accordingly. Relief in respect of insurance premia and provident fund contributions is to be computed on the old basis where the 1938-1939 rates of tax apply and on the new basis where the 1939-1940 rates apply.

2. Attention is also drawn to the fact that although the provisions referred to above will render the rates of tax of 1938-39 appropriate to most salary assessments for 1939-1940, the amended provisions of section 7 of the Incometax Act 1922 apply for 1939-40 to all cases and in

particular that the assessment for 1939-40 based on the income of 1938-39 is to include salary due but not drawn and any sum paid on the termination of employment (unless exempted under the amended Incometax Act).

3. The form of return under section 21 has been amended accordingly and attention is drawn to the changes made in the form.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including Commissioner of Income-tax (Central)). A copy of the circular should be supplied to all Income-tax Officers.

The Income tax Adviser to the Board.

SR.
13/4.

Issue 9.5.39

166

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 19th June ~~May~~ 1939.

Issued 19/6/39

R.Dis.No. F.31-39 Judl. Enc (3)

A copy of the undermentioned paper(s) is forwarded with compliments to the ~~Secretary to the Government~~ of His Highness the Maharaja of Mysore, ~~Department~~, for information, ~~in continuation of~~ ~~with~~ reference to the correspondence ending with (his) ~~Memorandum~~ ~~letter~~ ~~endorsement~~ from

~~No.~~ ~~, dated the.~~

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for necessary action, with reference to endorsements from this Residency R.Dis.No.F.31-39/R.O.I, dated the 25th January 1939.

S.N.3 & 4
c.p.7 & 8

2. A ~~copy~~ draft of the instructions issued to the Income-tax Officer may be sent to this office ~~for transmission to the Accountant-General, Madras~~. as early as possible.

By order, etc.,

9.6-

for Secretary ~~Asst. Secy~~. to the Resident in Mysore. and Commissioner of Income-tax.

List of papers.

S.N.31
P.U.C.

Letter from the Accountant General, Madras, (T.M.Section), No.T.M.3-1-83/39-40, dated the 18th April 1939 with enclosures

7.5.39

8.5.39

S N 36

(6)

1 sheet 9.5.39

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 19th June ~~May~~ 193 9 .

9 Issues 17/6/39. Ts..

R.Dis. No. F.31-39 Enc 11)
Judl.

~~A copy~~ of the undermentioned paper(s) ~~is forwarded~~ with compliments to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information, ~~in continuation of~~ with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

~~No.~~ ~~, dated the~~

A copy of the undermentioned paper is forwarded to the Asst. Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

9.5.

for Secretary ~~Asst. Secy.~~ to the Resident in Mysore and Commissioner of Income-tax.

List of papers.

S.N.32
P.U.C.

Endmt. ~~Letter~~ from the Central Board of Revenue ~~to the Commissioner of Income-tax, Bihar and Orissa,~~ D.A Dis.No.645-I.T./38, dated the 4th April 1939 ~~9th January 1939~~, with enclosures.

7.5.39

8.5.39

S.N. 37

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 30th May *1939*.

R.Dis.No. F.31-39 Judl.

A copy of the undermentioned paper(s) is forwarded with compliments to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information, in continuation of with reference to the correspondence ending with (his) Memorandum letter endorsement from

No. dated the

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for Secretary Asst. Secy. to the Resident in Mysore. and Commissioner of Income-tax.

List of papers.

S.N.33 P.U.C. 1. Circular from the Central Board of Revenue No. 4 of 1939 dated the 11th April 1939.

S.N.34 P.U.C. 2. Circular from the Central Board of Revenue No. 5 of 1939 dated the 12th April 1939.

(With 2 spare copies).

Issued 11.5.39

Issued 16/5/39

S.N. 35

DRAFT LETTER.

(21)

R.DisNo. F.31-39 Judl. 16th May May 1939.

From

The Commissioner of Income-tax.

To

The Secretary,
Central Board of Revenue,
S i m l a.

Lands and Buildings - Government of India Act, 1935- Section 172(1)(a)- Issue of certificates under- Disputes with Provincial Governments- Enquiry regarding.

- - -

Sir,

I have the honour to refer to your letter C.No.27-Gl.I/39, dated the 28th March 1939. P.U.C.

2. Please send a copy of the letter C.No.92-Gl./37, dated the 6th December 1938, referred to in your letter under reference, as it has not been received here.

I have, etc.,

11/5

for Commissioner of Income-tax.

10.5.39

10.5.39

J 8/5 Ldg. & Cashiers
IL N.S.V.

S.W. 40 (32)

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
8 MAY 1939
1245 4699
Diary No.....
File No.....

RD 31/35

C.No.35(3)-I.T./39.

Central Board of Revenue.

New Delhi, the 3rd April 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Income-tax - Deduction of, from salary etc. - Memorandum of Instructions for.

...

S.N.23
e.p.36
(D)

In continuation of my letter C.No.35(3)-I.T./39, dated the 10th March 1939, I am directed to forward 6 copies of a Memorandum of Instructions for deduction of Income-tax and Super-tax every month from salary etc. as finally drawn up for information and guidance. A copy of the Memorandum may be supplied to all Income-tax Officers.

I have the honour to be,

Sir,

Your most obedient servant,

26 May
10-4-39.

First Secretary, Central Board of Revenue.

SR.

MEMORANDUM OF INSTRUCTIONS FOR THE DEDUCTION OF INCOME-TAX AND SUPER-TAX EVERY MONTH FROM SALARIES, ETC.

1. **Important changes in the Income-tax law.**—The attention of all persons responsible for paying any income chargeable under the head " salaries " is invited to the changes introduced by the Indian Income-tax (Amendment) Act, 1939, to sections 4, 7, 10 and 18 of the Indian Income-tax Act, 1922, and to the withdrawal of the exemption from tax on leave salaries and leave allowances paid in the United Kingdom or in any Colony.

2. **Basis of charge.**—Previously the basis of assessment in respect of any amount chargeable under " salaries " was the actual amount paid, *but this has now been changed and the present basis is the salary paid to a person or due to him, whether paid or not.* An advance by way of loan or otherwise of income chargeable under the head " salaries " is deemed to be salary *due* on the date when the advance is received.

3. **Super-tax also to be deducted by employer.**—The responsibility for deducting tax at the time of payment of salary has been extended to cover super-tax as well as income-tax.

4. **Rates of tax for persons resident in British India.**—In the case of an employee, who is resident in British India, income-tax and super-tax must be deducted at a rate representing the average of the rates applicable to his estimated total income under the head " salaries ". *Special attention is drawn to the fact that the system of rates for income-tax has been changed and now follows that which has always been in force for super-tax.* The rates of income-tax for the year commencing on 1st April 1939 (which are applicable to all deductions to be made on or after that date) are (except for companies and for cases to which the maximum rate of tax applies)—

Rs.	Rate.
First 1,500 of total income	Nil.
Next 3,500 of total income	9 pies in the rupee.
Next 5,000 of total income	1 anna 3 pies in the rupee.
Next 5,000 of total income	2 annas in the rupee.
Balance of total income	2 annas 6 pies in the rupee.

No tax is payable on incomes not exceeding Rs. 2,000 ; and tax payable on all incomes of Rs. 2,000 or more is to be restricted to half of the excess of the income over Rs. 2,000.

The rates of super-tax are (except for companies)—

Rs.	Rate.
First 25,000 of total income	Nil.
Next 10,000 of total income	1 anna in the rupee.
Next 20,000 of total income	2 annas in the rupee.
Next 70,000 of total income	3 annas in the rupee.
Next 75,000 of total income	4 annas in the rupee.
Next 1,50,000 of total income	5 annas in the rupee.
Next 1,50,000 of total income	6 annas in the rupee.
Balance of total income	7 annas in the rupee.

N. B.—For examples showing the manner in which the tax deductible is computed see paragraph 14.

5. **Non-resident employees.**—In the case of an employee, who is not resident in British India, income-tax should be deducted at the time of payment at the maximum rate and super-tax at the rate or rates applicable to his estimated income under " salaries ".

6. **Salaries (and leave salary) paid abroad but earned in British India.**—The salary (including leave pay but excluding pension payable outside India) of an employee whether resident or non-resident, is deemed to accrue

or arise in British India, wherever paid, if it is earned in British India ; also where " salary " earned in British India is payable outside British India no allowance in respect of that payment will be made in computing the income of the employer, unless tax has been paid thereon or deducted therefrom under section 18.

7. **Withdrawal of exemption of leave salary paid abroad.**—*The notifications under sub-section (1) of section 60 of the Indian Income-tax Act, exempting from tax leave salaries and leave allowances paid in the United Kingdom or in any of the High Court, Chief Courts, etc., officers of Government and of companies and of private employers*, have been withdrawn with the consequential arrangements that leave allowances in future are

S.N.2
R.D.F.I-39(II).

7A. The pay which is for duty outside India and which is paid outside India is not taxable unless the recipient is resident and ordinarily resident in British India in the year of receipt and he would get the exemption of Rs.4,500. No tax will be deducted at source in such cases.

be included under this head for deduction of tax at source :—

(*i*) House rent allowance ;

(*Note.*—The value of rent-free quarters is also taxable under section 7. Though the employer may not be legally bound to deduct tax from it, it will usually be more convenient to include this amount in the amount upon which the tax to be deducted from salary is computed and arrangements may be made accordingly.)

(*ii*) Any bonus, gratuity, fees, commission, perquisites or other allowance or profit in lieu of or in addition to salary ;

(*iii*) Income-tax paid by the employer on behalf of the employees in respect of the salary ;

(*iv*) Payments due to or received by an employee in connection with the termination of his employment consisting of employer's contribution and interest, unless the payment is made solely as compensation for the loss of employment and not by way of remuneration for past services. This does not, however, apply to—

(*a*) any payment from a provident fund to which the Provident Funds Act, 1925, applies ;

(*b*) any payment from a recognised provident fund under Chapter IXA, if such payment is exempted from payment of income-tax under that chapter ;

(*c*) any payment from an approved superannuation fund under Chapter IXB made on the death of a beneficiary or in lieu of, or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established.

10. **Life insurance premiums, provident fund and other contributions.**—Rebate of income-tax (but not super-tax) calculated at a rate representing the average of the rates of income-tax applicable to the total income of the employee is admissible in respect of the following deductions, contributions and premiums, subject to the condition that the aggregate of the total sums exempted shall not exceed in the case of an individual 1/6th of the total income or Rs. 6,000 (Rs. 12,000 in the case of a Hindu Undivided Family), whichever is less :—

(*a*) sums deducted from a Government servant's salary in accordance with the conditions of his service for the purpose of securing a deferred annuity to him or making provision for his wife or children ;

(*b*) contributions to a recognised provident fund subject to the provisions of Chapter IXA ;

(*c*) contributions to a recognised superannuation fund subject to the provisions of Chapter IXB ;

(*d*) sums paid by the employee to effect an insurance on his life or on that of his wife or in respect of a contract for a deferred annuity on his life or on that of his wife. Before any rebate is given in respect of any of these sums, the employer should satisfy himself that it is properly due and, if in doubt, should communicate with the Income-tax Officer. (See note on the examples below.)

11. **Employees' expenses.**—Tax is not payable in respect of any sum which the employee, by the conditions of his employment, is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duty. The cost of travelling from a person's residence to his place of employment is not admissible. Except where the Income-tax Officer has agreed the amount to be allowed, income-tax and super-tax should be deducted on the gross income before deducting such expenses paid by the employee, who may claim the allowance either by adjustment of a later deduction or by refund at the end of the year when he is making his return of income.

12. **Fractions.**—In calculating the amount of tax payable the amount due on a fraction of a rupee of income should be neglected and in determining the amount of tax payable, fractions of an anna less than six pies should be disregarded and fractions of an anna equal to or exceeding six pies should be regarded as one anna.

13. **Excess or deficient deductions.**—Any excess or deficiency arising out of any previous deduction of tax from the salary of a particular person can be adjusted at the time of any subsequent deduction of tax with reference to the salary paid to the same person. Such adjustments should not, however, be made from payments on or after 1st April in any year in respect of an excessive or deficient deduction prior to that date.

14. **Ready Reckoner and calculation of tax.**—A ready reckoner for the purpose of calculating the average rate chargeable on all incomes between Rs. 2,000 and Rs. 25,000 is available for sale at all authorised Government book-sellers. Examples to show how the tax is to be deducted, and claims for insurance premiums, etc., should be calculated, are given below :—

Example 1.—Income Rs. 2,400 per annum. Life insurance premium Rs. 150 per annum.

Income-tax payable per annum—

Rs.		Rs. a. p.
1,500 at nil		Nil
900 at 9 pies		42 3 0
2,400		42 3 0

Average rate of tax $= \frac{42}{2,400} = 3 \cdot 37$ pies.

Life insurance relief Rs. 150 at 3·37 pies	2 10 0
Net yearly tax	39 9 0
Tax to be deducted from the monthly income of Rs. 200 is therefore	3 5 0

Example 2.—Monthly income—Rs. 3,500, Rs. 42,000 per annum.

Provident fund contribution	Rs. 5,000	Rs. 9,000. Restricted to 1/6th of salary and to Rs. 6,000 in the aggregate. (If the assessee were a Hindu Undivided Family the limit would be Rs. 12,000.)
Life insurance premium	Rs. 4,000	

Income-tax payable—

	Rs.	a.	p.
First Rs. 1,500 at nil	Nil		
Next Rs. 3,500 at 9 pies	164	1	0
Next Rs. 5,000 at 1 anna 3 pies	390	10	0
Next Rs. 5,000 at 2 annas	625	0	0
Next Rs. 27,000 at 2 annas 6 pies	4,218	12	0
Total Rs. 42,000	5,398	7	0
Average rate of income-tax $= \frac{5,398}{42,000} = 24 \cdot 68$ pies.			
Provident fund and life insurance relief Rs. 6,000 at 24·68 pies .	771	4	0
Net annual income-tax	4,627	3	0
Monthly deduction of income-tax $= \frac{4,627 \cdot 3}{12}$ . . .	385	10	0

Super-tax payable—

	Rs.	a.	p.
First Rs. 25,000	Nil		
Next Rs. 10,000 at 1 anna	625	0	0
Next Rs. 7,000 at 2 annas	875	0	0
Total Rs. 42,000	1,500	0	0

(No deduction of super-tax is to be given in respect of Provident Fund contributions or life insurance premiums.)

Monthly super-tax payable $= \frac{1,500}{12}$ . . . . Rs. 125 0 0

	Rs. a.	Rs. a.
Monthly salary . . .		3,500 0
Deduct—Income tax . .	385 10	
Super-tax . .	125 0	
		510 10
Net payment each month .		2,989 6

Note.—In the case of life insurance policies which have been in existence during the whole of the preceding year, the person paying the salary should not insist on production of the premium receipts unless he has reason to believe that the policy has expired or been surrendered. A proportionate allowance should be given each month based on the total premiums ~~payable~~ within the year. Where a new policy has been taken out the first premium receipt should be called for and the allowance given in the next deduction of income-tax.

Example 3.—(*a*) Suppose a person's salary is Rs. 400 per mensem; his total salary during the accounting year 1938-39 will be Rs. 4,800. Suppose he drew an advance of pay in February 1939 of Rs. 400 and that he paid Life Insurance premium, etc., of Rs. 600. Tax at source on Rs. 4,800 at 6+6/12 pies per rupee or Rs. 150+12/8=Rs. 162-8-0.

In 1939-40 assessment.

His position would be as under :—

	Rs.
Salary	4,800
Advance	400
Total .	5,200
Less Life Insurance premium	600
Balance	4,600

	Rs. a.
Tax at 9 + 9/12 pies (Rs. 215/10 + Rs. 18/-)	233 10
Less tax already paid	162 8
Balance recoverable by direct assessment	71 2

	Rs.
(*b*) During the accounting year 1939-40 his salary would be taken at .	4,800
Less advance recoverable	400
Balance	4,400

The tax recoverable from him at source under section 18 (2) would be as under :—

	Rs. a.
First Rs. 1,500 at nil.	Nil
Next Rs. 2,900 at 9 pies	135 15
Rs. 4,400	135 15

Average rate of tax $\frac{135/15}{4,400}$ = 5·93 pies in the rupee.

	Rs. a.
Life Insurance relief Rs. 600 at 5·93 pies	18 9
Therefore the year's tax is	117 6

Average monthly tax 117/6

The above examples show the method of deduction of
cases where the salary remains the same throughout
ar. It is not, however, the intention that the tax
be collected in 12 equal monthly instalments in cases
on account of the employee going on leave or for
reasons, the salary figure varies. In such cases the
ould be deducted on the amount paid every month at a
epresenting the average rate of income-tax and super-
r rupee applicable to the estimated total income of
ployee, e.g. in the case of an employee going on
the disbursing officers should calculate the average
f income-tax and supertax per upee on the basis of
-

salary drawn during the year before the commencement
of the leave; plus
salary to be drawn while on leave; plus
salary to be drawn on return from leave
during the same fiscal year."

GIPD - M 15 CBR—17-4-39—1,500.

S.N. 41

No. I-C9L-2

22-929-40

OFFICE OF THE
ASSISTANT COMMISSIONER OF INCOME-TAX,
C. & M. STATION, BANGALORE.

Dated 9th May 1939.

OFFICE OF THE
H. B.E THE RESIDENT
IN MYSORE, BANGALORE.
11 MAY 1939
Diary No. 4823
File No. 39 31/39

FROM

The ASSISTANT COMMISSIONER OF INCOME-TAX,
CIVIL AND MILITARY STATION, BANGALORE.

To

The Secretary
to the Hon'ble the Resident in Mysore
and Commissioner of Income-tax, BANGALORE.

SIR,

Income-tax and Super-tax - Deduction at source from Salaries- Memorandum of Instructions.

S.N.27
C.1.50
(D)

With reference to your endorsement R.Dis.No. F.31-39/Judl dated 29th April 1939 on the subject noted above, I have the honour to state that I have no comments to offer except that in Instruction 5 line 3 after the words "maximum rate" the following may be added:

> "unless a certificate from the Income-tax Officer is produced under the proviso to Sub Section (3) of Section 18 of the Act that the total world income of the employee will be less than the minimum liable to income-tax or will be liable to a rate of income-tax less than the maximum rate"

I have the honour to be,

Sir,

Your most obedient servant,

J. N. Nagagopalan.

For Asst.Commissioner of
Income-tax.

RSR.

(Calls 16 Corbett) — 9 Mr. N.S.V. 16/5/39 S.N.H.2 (39

22.6.39

OFFICE OF THE D.O.
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 MAY 1939
Diary No. 4740
File No.

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE,
Simla, the 29th April 1939.

My dear Edwards,

The procedure whereby persons responsible for paying salaries may allow abatement in respect of life insurance premiums only on production of the premium receipt has been relaxed, and in future such abatement may be allowed without production of the receipt in cases in which the policy was in force throughout the preceding year and production of the receipt would be inconvenient or would cause delay. As a consequence, the instruction in P.* 73 that abatement may be allowed in respect of premiums paid within six calendar months ending with month for which the salary is drawn is also withdrawn, and any relief in respect of such premiums which cannot be given by abatement from deductions from salary drawn <u>for the year in which the premiums are paid</u> is to be given by refund, or abatement in the assessment made for the year.

* pages 231-234 of I.T. Manual (Part II)

Whilst this modification in procedure should facilitate the work of paying officers, care is necessary to prevent wrongful allowance in respect of policies which have lapsed, and Income-tax Officers should, in cases in which the premium receipts have not been seen by the paying officers, call for the receipts when making the assessment or computing any refund due for the year.

Yours sincerely,

Delinny

2. 5. 39.

Major C.G.N. Edwards, (or successor),
Commissioner of Income-tax,
Civil and Military Station, <u>Bangalore.</u>

Fin. N.S V S.N.44 (41

D.O.C.No.229-Admn.Gl./38 CENTRAL BOARD OF REVENUE,
Simla, the 6th May 1939.

OFFICE OF THE
H'B E THE RESIDENT
IN MYSORE, BANGALORE.
12 MAY 1939
Diary No 4864
File No.....

RA 31/35.

1823 W 11/5

My dear Mullan,

Financial stringency - Reduction in expenditure - Correspondence resting with my demi-official letter C.No.229-Admn. Gl./38, dated the 11th April 1939.

The illustration given in my letter C.No.229-Admn.Gl./38, dated the 16th February 1939, was just to indicate in some ready concrete manner what constituted a 'cadre' and I did not realize its unsuitability to some departments under the Board. As in the Income-tax Department direct recruitment for the clerical establishment, other than stenographers, is made only in the Lower Division, the cadre will consist of all ministerial posts except those of stenographers. For this purpose, each office will form an independent unit to facilitate the application of the economy orders. I trust this meets the point you have raised.

Yours sincerely,

T.S.Pillay,
8. 5. 39.

C.S. Mullan, Esquire, I.C.S.,
Commissioner of Income-tax,
United and Central Provinces.

Copy forwarded to all Commissioners of Income-tax except the Commissioner of Income-tax, United and Central Provinces for information.

By order, etc.,

ICP.8/5.

First Secretary, Central Board of Revenue.

S.N 46

DRAFT LETTER.

R.Dis.No. F.31-39 Judl. 31st May 1939.

From

The Secretary to the Resident and Commissioner of Income-tax.

To

The Assistant Commissioner of Income-tax, C.& M.Station, Bangalore.

Income-tax - Deduction of, from salary etc. - Memorandum of Instructions for.

Sir,

I am directed to refer to your letter No.I.T.Gl.2/22 - 1939-40 dated the 10th May 1939. The modification suggested in that letter has not been communicated to the Central Board of Revenue, as the Memorandum of Instructions as finally drawn up has already been received ~~as finally drawn up~~. Three copies of the Memorandum as finally drawn up are forwafded herewith for information and guidance. A copy may be supplied to the Income-tax Officer.

I have, etc.,

for Secretary to the Resident and Commissioner of I.T.

(5 copies of the Memorandum are kept at bottom.)

Draft IV
21/6/39
Issue 23/5

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21st June ~~May~~ 1939.

R.Dis No. F.31-39 Judl. Ex (2)

A copy of the undermentioned paper(s) is forwarded with compliments to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information, in continuation of with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

No. , dated the

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

23/5

for Secretary ~~Asst. Secy~~ to the Resident in Mysore. and Commissioner of Income-tax.

List of papers.

S.N.44 P.U.C. 1. Endorsement from the Central Board of Revenue, C.No.229-Admn.Gl./38 dated the 6th May 1939 with enclosure.

S.N.45 P.U.C. 2. Endorsement from the Central Board of Revenue D.Dis.No. 46(6)-I.T./39 dated the 8th May 1939 with enclosure.

19.5.39

22.5.39

4 Dept II

Res. Mysore 39.

Issued 21/6/39.

1550 23/5

S.N Q.S

86

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21st June ~~May~~ 1939.

R.Dis No. F. 31-39 Encl (1)
~~XXXXX~~ Judl.

A copy of the undermentioned paper(~~s~~) is forwarded to the

1. ~~The~~ Collector and District Magistrate,
2. Asst. Commissioner of Income-tax,
3. Residency Surgeon,
4. Commissioner of Police,
5. Inspector of Schools,
6. District and Sessions Judge, Registrar of Assurances, and Registrar of Firms and Joint Stock Companies,
7. Officer in charge of the Hon'ble the Resident's Treasury,

Civil and Military Station, Bangalore, for information and guidance.

~~for information, in continuation of~~ ~~with reference to~~ the correspondence ending with his

~~Memorandum~~
~~letter~~ from
~~endorsement~~

(~~2~~) to No.2 only. (2. The instruction in the last paragraph of the letter from the Central Board of Revenue may be brought to the notice of the Income-tax Officer.)

~~No.~~ ~~dated the~~

By order,

23.5.

for ~~Asst. Secy.~~ *Secretary to the Resident.* and Commr.of Income-tax.

LIST OF PAPERS.

~~Demi-Official~~ letter from the Central Board of Revenue,

C.N.42 P.U.C. C.No.35(3)-I.T./39 dated the 29th April 1939.

(With one sp. copy to No.2.)

Copy of C.B.R. letter to be given to Cashier.

21—2-4-1935—2,000—RPB.

19-5-39

22.5.39

Issued 21/6/39

Issued 23/5

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21st ~~January~~ 1939

R.Dis. No. F.31-39 Eccl (2).
Judl.

A copy of the undermentioned paper(s) is forwarded with compliments to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information, in continuation of with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

~~No~~ ~~, dated the~~

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for ~~Asst. Secy.~~ Secretary to the Resident in Mysore and Commissioner of Income-tax.

List of papers.

S.N.43
P.U.C.

~~Demi-Official~~ Letter from the Central Board of Revenue C.No.35(6)-I.T.39 dated the 29th April 1939.

19.5.39

22.5.39

N-50

CIRCULAR NO. 2 OF 1939.

R.Dis.No.4(6)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 21st March 1939.

CIRCULAR.

Indian Income-tax Act, 1922 - Sub-Section (4) of section 5 - Two or more Income-tax Officers appointed for the same area - Allocation and distribution of work - Instructions regarding.

.....

Although sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (Sub-section (5) of section 5 of the Act as amended) says that where two or more Income-tax Officers are appointed for the same area the work shall be performed in accordance with such orders as the Commissioner may make, it is obvious that if the work has to be distributed - as it must - the distribution must be made by the order of the Commissioner and not by the Income-tax Officers themselves by mutual consent. There is no provision in the Act which empowers or enables the Income-tax Officers to distribute the work among themselves.

First Secretary, Central Board of Revenue.

Copy forwarded to all Commissioners of Income-tax (including the Special Investigating Officer, Bombay) and the Income-tax Adviser to the Central Board of Revenue.

By order, etc.

First Secretary, Central Board of Revenue.

R.22/3.

Mr. V.T.M

S. N. 51

(54

J 6.4.39

C.No.229-Adm.(Gl.)/38.

Central Board of Revenue.

New Delhi, the 27th March 1939.

...

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
4 APR. 1939
Diary No. 3599
File No.....
RR 31/39

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Heads of Departments subordinate to the Central Board of Revenue.

Sir,

Financial stringency - Reduction in expenditure.

...

I am directed to invite a reference to paragraph 3 of the Central Board of Revenue letter C.No.229-Admn.(Gl.)/38, dated the 16th February 1939, in which it is stated inter alia that where a temporary post or an officiating arrangement in a deputation or other vacancy, originally sanctioned immediately previous to the date of the instructions, is continued for a sufficiently long period after the instructions have come into effect, steps should be taken to refix the officiating pay of the individual who holds that post or is officiating in that arrangement. This instruction really contemplated cases in which the first occasion of the Government servant's officiating had occurred in the circumstances so described. The Board considers that this instruction, if construed to apply generally, will cause hardship inasmuch as officiating pay is reduced without any change in duties and responsibilities.

x not received

This

This hardship is greater in the case of a Government servant who has, by previous officiating service, drawn one or more increments than in the case of one who is appointed to officiate for the first time or whose total officiating service does not exceed one year. To mitigate the hardship in such cases, it has been decided, with the concurrence of the Finance Department, that officiating pay should not be reduced in the following cases:-

(1) when a Government servant on the termination of the vacancy in which he was appointed to officiate is allowed to continue to officiate in another vacancy without a break,

(2) when a Government servant who has, by previously officiating in a post, earned one or more increments reverts but is reappointed to officiate in another vacancy within a short period, say not exceeding a fortnight,

(3) when a Government servant while officiating in a post takes leave of not more than fifteen days and on return is reappointed to officiate in the same or another post.

The instruction should however without causing undue hardship and subject to individual cases being considered on their merits, be applied to the case of Government servants under (2) and (3) who have not earned any increment in the officiating post. A Government servant who has earned one or more increments by previous officiating

officiating service and whose case is not covered by any of the exceptions mentioned above, may be given on reappointment to officiate in a post 50% of the difference between the officiating pay last drawn and the reduced officiating pay fixed on the basis of 10% of the presumptive pay of the post. Thus a Government servant whose officiating pay previously drawn is Rs.300/- per mensem and whose officiating pay is reduced to Rs.260/- on the basis of the 10 per cent of the presumptive pay, may be allowed Rs.20/- more, i.e. 50% of the difference between Rs.300 and Rs.260/-.

2. These instructions should be followed in cases in which the occasion for fixing officiating pay arises in future and also in past cases in which officiating pay has not been fixed finally. Cases in which officiating pay has already been fixed need not be re-opened, except when the hardship is likely to be prolonged. In such a case the officiating pay may be refixed in accordance with these instructions without retrospective effect.

I have the honour to be,

Sir,

Your most obedient servant,

28.3.39

First Secretary, Central Board of Revenue.

Copy ...

52

Copy forwarded to all Accountants-General, Comptrollers, Sind and Assam, and Audit Officer, Indian Stores Department, for information.

SR.
28/3.

S. N 5 2

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27th May 1939.

R.Dis. No. F.31-39/Judl. Enc (4)

A copy of the undermentioned paper is forwarded to the Asst.Commr. of Income-tax, C & M Station, Bangalore, for information.

A copy of the undermentioned paper(s) is forwarded with compliments to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information,

in continuation of / with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

No. , dated

By order, etc.,

for • Secretary / ~~Asst. Secy.~~ to the Resident in Mysore. & Commr. of Income-tax.

List of papers.

S.N.29 p.u.c

Endorsement from the Central Board of Revenue R.Dis.No.4(6)-I.T./39, dated the 21st March 1939, with enclosures.

(With 3 spare copies.)

Note for typist.
Spare copy kept at bottom of file

Issued 27/5/39

Draft-II

S.N

94

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27th May *1939*.

R.Dis.No.F.31-39/Judl. (1).
No.

A copy of the undermentioned paper(s) is forwarded with compliments to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information, in continuation of / with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

~~No.~~ , ~~dated the~~

A copy of the undermentioned paper is forwarded to the Asst.Commr. of Income-tax, C. and M. Station, Bangalore, for information.

By order, etc.,

for Secretary / ~~Asst. Secy.~~ to the Resident in Mysore.
& Commr. of Income-tax

List of papers.

Letter from the Central Board of Revenue, C.No.229-Adm.(Gl.)/38 dated the 27th March 1939.

(Copy to be given to the Budget Clerk)

8.5.39

Draft

F. part Mr. N.S.V

15/4/39

S. V. (5-4)

95

D.A.Dis.No.61-Gl.I/39.

Central Board of Revenue.

New Delhi, the 30th March 1939.

...

A copy of the undermentioned paper is forwarded to all Heads of Departments subordinate to the Board.

By order, etc.,

A. Ramachandran
6/4/39

for Second Secretary, Central Board of Revenue.

OFFICE OF THE COLLECTOR OF MADRAS
No. 2024
18 APR 1939

PAPER FORWARDED.

Not received
T.T. of the enclosure
is to be marked

MCN
18/4/39

Letter from the Federal Public Service Commission No.F.19/39-Gl., dated the 21st March 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
18 APR. 1939
Diary No. 3997
File No.

SR.
5/4.

RD 31/39

S.N.55

96

DRAFT LETTER.

Issued 30/5/39 BS

Secn 23/5

R.Dis.No.F.31-39 Judl. 30th May 1939.

From

The Commissioner of Income-tax,
Civil and Military Station,
Bangalore.

To

The Secretary,
Central Board of Revenue,
S i m l a.

Sir,

P.U.C

I have the honour to refer to your endorsement D.A.Dis.No.61-Gl.I/39 dated the 30th March 1939. The letter from the Federal Public Service Commission No.F.19/39-Gl., dated the 21st March 1939 ~~which forms an enclosure to the above endorsement~~ has not been received in this office. Please send a copy ~~of it~~.

I have, etc.,

for Commissioner of Income-tax.

22/5

LL 19.5.39

ARa 22.5.39

C.No.31(7)(11)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 3rd April 1939.

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,
Ajmer-Merwara
Coorg
Mount Abu.

OFFICE OF THE
HONBLE THE RESIDENT
IN MYSORE, BANGALORE.
APR 1939
Diary No. 3730
File No.

Sir,

Appellate Assistant Commissioners - Appointment of.

I am directed to refer to my telegram dated the 29th March 1939 on the above subject and to say that as the Income-tax Act as recently amended contemplates the appointment of a separate class of officers (i.e. the Appellate Assistant Commissioners) for the disposal of appeals, it will not be proper for an Assistant Commissioner appointed under the Act as it stood before amendment to dispose of any appeals now. Necessary instructions may therefore be issued to the officers concerned.

2. Steps are being taken to notify the appointment of Appellate and Inspecting Assistant Commissioners as early as possible.

I have the honour to be,
Sir,
Your most obedient servant,

T.S.Pillay,
First Secretary, Central Board of Revenue.

Copy forwarded to the Commissioner of Income-tax, Civil and Military Station, Bangalore.

By order, etc.,

4. 4. 39

First Secretary, Central Board of Revenue.

orders to the Commissioner concerned, in addition to that sent by them to the Income-tax Officer or to the Appellant. The Commissioner will, in his discretion, call for the assessment record of any case which he wishes to examine, and bring to the notice of the Board cases of incorrect or ineffective disposals, with such other relevant comments as he deems necessary. The Board will also prescribe a form of monthly report to watch the progress of disposal of appeals. The Income-tax Adviser to the Board will inspect the offices of Appellate Assistant Commissioners as and when possible.

5. When an Appellate Assistant Commissioner is hearing an appeal, the Income-tax Officer who made the assessment should be present in those cases only in which the Inspecting Assistant Commissioner considers his presence to be necessary. Income-tax Officers should, as a matter of routine, notify the Inspecting Assistant Commissioner of all cases in which an appeal has been lodged and the latter will, apart from examining these cases if he considers it desirable, inform the Income-tax Officer of the cases in which he should appear before the Appellate Assistant Commissioner. Ordinarily, the Income-tax Officer's presence will be necessary in cases involving a particularly difficult point of law or of fact upon which the Income-tax Officer's

exposition.....

exposition would be a valuable corrective to an advocate's exposition and cases, in which there was a reasonable fear that the statements of the appellant before an Appellate Assistant Commissioner, unaware of his character would lead to miscarriage of justice, and in which, therefore, the presence of the Income-tax Officer might effectively prevent the acceptance of gross misstatements or even the making of such misstatements.

FIRST SECRETARY, CENTRAL BOARD OF REVENUE

Copy forwarded to all Commissioners of Income-tax, the Special Investigating Officer, Bombay and the Income-tax Adviser to the Board.

By order, etc.,

FIRST SECRETARY, CENTRAL BOARD OF REVENUE.

S N (58)

103

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Dated Bangalore, the 22nd May 1939.

R.Dis.No. F.31-39 Gn(2) / Judl.

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance. The question so far as it applies to the Civil and Military Station is under consideration.

By order, etc.,

(Sd) A.J. Bourtney.

for SECRETARY TO THE RESIDENT IN
MYSORE AND
COMMISSIONER OF INCOME-TAX.

- - - - - -

Endorsement from the Central Board of Revenue C.No.31(7)(ii)-I.T/39, dated the 3rd April 1939.

Circular from the Central Board of Revenue No.3 of 1939 dated the 3rd April 1939.

BJ

Mr. N 57
JD 1-1-52

S N 57

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OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
12 MAY 1939
Diary No. 4868
File No.

RD 31/39

Circular No. 6 of 1939.

C.No.31(7)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 26th April 1939.

Circular.

Appeals - Date and place of hearing of, Notice of, to the Income-tax Officer.

Under the second proviso to sub-section (3) of section 31 of the Indian Income-tax Act, 1922, as amended by the Indian Income-tax (Amendment) Act, 1939, the Income-tax Officer shall have the right to be heard either in person or by a representative at the hearing of any appeal against his order. The Board has issued instructions that the Income-tax Officer who made the assessment should be present in those cases only in which the Inspecting Assistant Commissioner of Income-tax considers his presence to be necessary and the types of cases in which his presence will ordinarily be necessary have also been indicated. The Appellate Assistant Commissioners of Income-tax should accordingly give notice to the Income-tax Officer concerned of the time and place of hearing of an appeal against his order.

First Secretary, Central Board of Revenue.

To

All Appellate Assistant Commissioners of Income-tax.

The Commissioner of Income-tax, Bihar and Orissa with reference to his letter No.A-50, dated the 6th April 1939 and in continuation of Board's Circular No. 3 of 1939 C.No.31(7)-I.T./39 dated the 3rd April 1939.

The other Commissioners of Income-tax including the Commissioner of Income-tax, (Central) Bombay in continuation of Board's Circular No. 3 of 1939 C.No.31(7)-I.T./39, dated the 3rd April 1939.

S.N 57 of (1)

The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

First Secretary, Central Board of Revenue.

J.P.28/4.

S.N.67

C.No.30(10)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th May 1939.

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax (including the Commissioner of Income-tax, Central).

Sir,

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23 MAY 1939
Diary No. 529/...
File No. RD 31/39

The Indian-Income-tax (Amendment) Act, 1939 - Notes for the guidance of Officers -.

I am directed to invite your attention to the opening paragraph of Board's Circular No. 4 C.No.31(9)-I.T. of 1939/39 dated the 11th April 1939 and to say that arrangements have been made for the early printing of the 'Detailed notes' (for the guidance of officers) mentioned therein.

I am accordingly to request that the number of copies required by you for use by officers in your department may be intimated to the Board very early. The demand may be justified with a distribution statement. I am to add that the 'Notes' are for departmental use only.

I have the honour to be,
Sir,
Your most obedient servant,

First Secretary, Central Board of Revenue.

M.16.5.

3 days
S N 62

Res. Mysore 38.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Issued 9/6/39 Rs.

Issue 2/6

Bangalore, the 9th June *1939*.

R.Dis.No. F. 31-39 Judl. Enc (4)

A copy of the undermentioned paper is forwarded to the Assistant Commr. of Income-tax, C.& M.Station, Bangalore, for information and guidance in continuation of endorsement from this Residency R.Dis.No.F.31-39/Judl. dated the 22nd May 1939.

S.N.58 'D'

~~A copy of the undermentioned paper(s) is forwarded with compliments to~~

the Secretary to the Government of

His Highness the Maharaja of Mysore, Department

for ~~information,~~ ~~in continuation of~~ with reference to ~~the correspondence ending with (his)~~

~~Memorandum~~ ~~letter~~ endorsement ~~from this Residency R.Dis.No.F.31-39/Judl.~~

S.N.58 4 (D)

~~dated the 22nd May 1939.~~

No. ~~dated the~~

By order,

for *Secretary to the Resident.*
and Commissioner of Income-tax.

LIST OF PAPERS.

S.N.59 P.U.C. Circular from the Central Board of Revenue No.6 of 1939 dated the 26th April 1939.

(With the 3 spare copies)

Sp. copies kept at bottom.

31.5.39

1620—2-4-1935—2,000—RPB.

1.6.39

S. N. 64

3 copies / Draft III

Issued 9/6/39 Ps.

Issue 2/6

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 9th June ~~May~~ 1939.

R.Dis. No. F.31-39 Judl. Enc (1)

~~A copy of the undermentioned paper(s) is forwarded with compliments~~ to the Secretary to the Government of His Highness the Maharaja of Mysore, Department, for information, in continuation of ~~with reference to the correspondence ending with (his)~~ Memorandum ~~letter~~ endorsement from

~~No.~~ , ~~dated the~~

A copy of the undermentioned paper is forwarded to the Asst. Commissioner of Income-tax, C.& M.Station, Bangalore, ~~with the~~ in continuation of ~~reference to~~ endorsment from this Residency R.Dis.No.F.31-39/Judl. dated the 30th May 1939. The number of copies of the 'Notes' as are required by him may kindly be communicated to this Residency with a ~~draft~~ distribution statement.

S.N.37
7 (D)

By order, etc.,

for ~~Asstx Secy.~~ Secretary to the Resident in Mysore.
and Commissioner of Income-tax

List of papers.

S.N.62
P.U.C.

Letter from the Central Board of Revenue, C.No.30(10)-I.T dated the 15th May 1939.

31.5.39

A.Rao
1.6.39

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C.No.92-Gl./37.

CENTRAL BOARD OF REVENUE

N.N.S.V.

Simla, the 1st May 1939.

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue.

To

All Heads of Department subordinate to the Board (Except the Chief Chemist, Central Revenues Chemical Service and Director, Control Laboratory, the Commissioner of Income-tax, Ajmer-Merwara and the Commissioner of Income-tax, Coorg).

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
23 MAY 1939
Diary No. 5290
File No. PA 31-39

Sir,

Lands and Buildings - Government of India Act, 1935 - Section 172(1) (a) - Issue of certificates under.

In continuation of the notifications of the Government of India in the Finance Department (Central Revenues) on the subject noted above, I am directed to state that several corrigenda to those notifications have of late been issued. The Board considers that it is not desirable to continue issuing the corrigenda piecemeal and has therefore decided that a consolidated corrigendum should be issued by the middle of July 1939 at the latest. I am therefore to request that the examination of the notifications referred to above may be expedited and the requisite data, if any, furnished to the Board by the 30th June 1939.

I have the honour to be,

Sir,

Your most obedient servant,

15-5-'39.
First Secretary, Central Board of Revenue.

J.P.15/5.

S 39 66

(111)

No.35(3)-I.T./39.

Central Board of Revenue.

Simla, the 22nd May 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

1. The Financial Adviser,
   Military Finance.
2. The Financial Commissioner,
   Railways.
3. The Crown Finance Officer.
4. The Finance Officer,
   Communications.
5. The Auditor General,
6. All Accountants-General
   (including the Military Accountant General, and the Accountant General, Posts and Telegraphs)
7. The Comptrollers, Assam, North-West Frontier Province, Sind and Orissa.
8. The Audit Officer,
   Indian Stores Department.
9. The Deputy Accountants General,
   Posts and Telegraphs, Delhi,
   Calcutta, Madras and Nagpur.
10. The Accounting Officer,
    Telegraph Check Office,
    Calcutta.
11. The Director of Audit,
    Defence Services.

12.

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12. The Director of Railway Audit.

13. The Controller of Railway Accounts.

Sir,

Income-tax - Deduction of, from salary etc. - Memorandum of instructions for.

...

In continuation of Finance Department (Central Revenues) endorsement C.No.35(3)-I.T./39 dated the 3rd April 1939, I am directed to enclose a copy each of the p a p e r s noted in the margin for information and necessary action.

* Auditor General 3 & 4 only. C.R.A. 1 & 2 only.

1. A.G.C.R's u.o. C.4-29-692, dated the 1st April 1939 to the Auditor General of India.
2. Board's reply to the Auditor General u.o.C.No. 35(3)-I.T./39, dated the 22nd May 1939.
3. C.R.A's U.O.I.No.89-Admn./39, dated the 2nd May 1939 to Board.
4. Board's reply to the Controller of Railway Accountants u.o.C. No.35(3)-I.T./39, dated the 22nd May 1939.

I have the honour to be,
Sir,
Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy, with enclosures, forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay) and the Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue.

SR. 23/5

there should be no objection to excluding short periods, I would suggest that periods of leave and officiating promotions not exceeding, say, 3 months should be excluded from the purview of such calculation.

(3) It is not clear whether on the occurrence of an event affecting the total estimated income. (whether received or not), the new average rate of income-tax based on the total income and income tax-payable for the whole year should be applied to the balance of the income or whether the average should be worked out on the ratio of the balance of income-tax payable to the undrawn balance of the estimated salary, so as to ensure that the total income-tax recoverable on the estimated income is wholly recovered during the year. In example 1 under paragraph 14, for instance, the average income-tax has been worked out as 3.37 pies per rupee. If, however, the officer were to officiate on a higher rate of pay for some period during the year the average rate calculated in the same manner might be 5 pies in the rupee, but the average rate calculated on the undrawn balance of the salary and the balance of income-tax payable might be 6 pies per rupee. It is presumed the latter rate of 6 pies should be applied on the balance of the undrawn income, since this will hardly involve any appreciable extra work in the Audit Office.

Paragraph 6 of Draft Instructions.

It appears that pension payable outside British India is not regarded as salary for the purpose of charging income-tax. Explanation 2 under Section 4 of the Amendment Act excludes pensions payable outside India, and there seems to be, therefore, a discrepancy between paragraph 6 of the Memorandum and the Explanation referred to.

It .....

It is presumed that a pension payable in an Indian State or from the Nepal or the Gyantse Treasury is to be considered as pension payable in British India.

Paragraph 10 of Draft Instructions.

(1) Section 15 of the Indian Income-tax Act lays down that the tax shall not be payable on premia paid by the assessee. But in the note below Example 2 given under paragraph 14 of the Memorandum, it is stated that a proportionate monthly rebate will be allowed on the amount of premia payable during the year. It is presumed that at the end of the year the assessee would have to submit all the premium receipts to the Income-tax Officer, as it is quite possible that he may have surrendered a Policy or have delayed to pay a premium due at the end of the year by taking advantage of the days of grace usually allowed by Insurance Companies. This procedure would be troublesome to the assessee as compared with the present system where the rebate claim is admitted by the Audit Officer on production of the receipts and the Income-tax Officer does not re-examine the admissibility of these rebates.

(2) It is also not clear whether the concession admissible under Section 18(2) of the Indian Income-tax Act, viz. the grant of rebate on premia paid within 6 calendar months ending with the close of the month for which the salary is drawn will be allowed in future or not. The Central Board of Revenue may, if considered necessary, be asked to state the intention.

2. The Central Board of Revenue had asked me for my comments on the Memorandum. I have informed the Board

that.....

that my comments are being communicated to the Auditor General, who will, if he considers necessary, address them again with reference to the first sentence of paragraph 2 of his U.O. No.146-Adm.I/19-39, dated the 17th March 1939 to the Central Board of Revenue.

Sd/- A.C. Gupta.

1 - 4 - '39.

The Auditor General of India.
A.G.C.R. U.O. C.4-29-692, dated the 1st April 1939.

J.P.23/5.

[illegible] [illegible] [illegible] [

Will the Central Board of Revenue kindly refer o their U.O.No.35(3)-17/39, dated the 13th March 1939 orwarding a copy of memo of instructions for the eductions of Income-tax and Super-tax from salaries tc. commencing from 1st April 1939.

2. In the note under the examples given at the nd of the memorandum referred to above it is laid own that in the case of Life Insurance Policies, which have been in existence during the whole of the preceding year, the person paying the salary should not insist on the production of premium receipts unless he has reason to believe that the policy has expired or been surrendered and a proportionate allowance should be given each month on the total premiums payable within the year. In this connection it may be pointed out that no record of the premium paid by the employees during 1938-39 is available. Moreover it is not an uncommon practice for a person to take out an assurance policy and surrender it after a few years and unless the paying authority has either seen the premium receipt or obtained a certificate that the policy is still current, a rebate may be granted where not due.

3. In the circumstances it would appear necessary that a declaration should be obtained from each assessee regarding the amount of premium payable by him during 1939-40 and also showing the date of expiry of such payments so as to enable the paying authority to give proportionate allowance each month on account of premiums as laid down in the note

referred .....

referred to above. Will the Central Board of Revenue kindly say whether they approve of the proposed arrangement.

4. Again in view of what is stated in the concluding sentence of paragraph 2 above, it may kindly be stated whether a declaration may be obtained from each assessee every year or whether it may be left to the Income Tax Officer to verify that the rebates allowed by the paying authority are in order.

5. It is also requested that further instructions referred to in paragraph 7 of the memorandum cited above may kindly be expedited.

6. Further comments, if any, on the memorandum referred to above will follow.

Ramchandran

2 - 5 - '39.

Central Board of Revenue
C.R.A's U.O.I.No.89-Admn.-39, dated 2nd May 1939.

CENTRAL BOARD OF REVENUE.

Income-tax - Deduction of, from salary etc. Memorandum of Instructions for.

Reference U.O. note of the Accountant-General, Central Revenues, dated the 1st April 1939 forwarded with the Auditor General's U.O. note No. 195-Adm.I/19-39 dated the 7th April 1939.

The two points on which the Auditor Genera asks for reply are dealt with beldw:-

(a) Paragraph marked (3) of the Accountant General, Central Revenue's u.o. note:- When ther is definite information about a change in the estimated total income of an officer, the new average rate of incometax will have to be worked afresh (or taken from the Ready Reckoner recently published) and from the time when this change is known, tax should be deducted at the new average rate under section 18(2). The proviso to section 18(2) empowers the employer or paying officer to increase or reduce the amount deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction and where there has been a change in the estimated total income under the head "Salaries" the excess or deficiency in previous deductions can be readily ascertained (or it can be seen at a glance by reference to the Ready Reckoner) and adjusted from the subsequent deduction without making any adjustment to the new average rate at which tax

in.....

in respect of current salary is being deducted.

(b) Paragraph (10) of the memorandum of instructions relating to rebate on life insurance premia:- Relief is due in respect of amounts paid during the year as in the past. If the facts relating to the rebate are clearly noted in the annual return under section 21 and it is clear from that return that the paying officer has seen the original insurance receipts, it would ordinarily be unnecessary for Incometax Officers to call for, or for the assessees to submit, such receipts at the time of assessment. The audit officer can allow rebate as at present on production of the receipts or even without the production of the receipts if he is satisfied that the policy is continuing. Instead of allowing the rebate on the actual amount paid, an employer (the audit officer in the case of Government servants) is given the further discretion in the note to example (2) of the memo to allow rebate on a figure proportionate to each month based on the total premia expected to be paid within the year.

This concession does away with the necessity for the existing concession allowing the grant of a rebate on premia paid within the six calendar months ending with the close of the month for which the salary is drawn. The latter concession is, therefore, being withdrawn.

26 may

20.5.39

First Secretary, Central Board of Revenue.

THE AUDITOR GENERAL.
C.B.R. U.O. C.No.35(3)-I.T./39, dated 22.5.39.

(121

CENTRAL BOARD OF REVENUE.

Income -tax - Deduction of, from salary etc. - Memorandum of Instructions for.

C.R.A's note U.C.I. No.89-Admn.-39, dated the 2nd May 1939.

Paragraphs 2 and 3 - Abatement in respect of life insurance premia - The procedure laid down in the Note to Example 2 under paragraph 14 of the Memorandum of Instructions is intended to facilitate the work of paying officers and they will have to prescribe the proof they will accept about the continuance of the policy. The Board does not see any objection to the suggestion for obtaining a declaration from each officer as sufficient proof.

Paragraph 4. The Income-tax Officers have already been instructed to call for the original receipts when making the final assessment in cases in which such receipts have not been seen by the paying officers. In making the annual return under section 21 it should be specifically stated whether the original receipts had been seen or not.

Paragraph 5. Deduction of tax on leave salaries and leave allowances. The Auditor General has already issued instructions in the matter vide his letters No.174-Admn.-I/19-39 dated the 18th March 1939 and 4th April 1939 to Accountants General, Comptrollers, etc.

20 - 5 - '39.
First Secretary, Central Board of Revenue.

C.R.A.
C.B.R. U.O.C.No.35(3)-I.T./39, dated 22-5-'39.

J.P.23/5.

F.A. 2-1/21

From

The Chief Superintendent of Indian Telegraphs,
Eastern Circle Buildings,
Calcutta, dated

No. 2977-85

24 MAY 1939

To

. . . . ashe, Esqr.,
Commissioner of Income-tax, Bengal.

to

The Commissioner of Income-tax, Mysore,
Bangalore.

Dated Calcutta, the 20th May, 1939.

Sir,

Miscellaneous - Abbreviated address under the style of "assessment" - Registration of under Rule 39b of the Post and Telegraph Guide - Enquiries in connection with.

In enclosing a copy of letter No. A 66/43 dated the 26th April, 1939 from the Chief Superintendent, Central Telegraph Office, Calcutta, I have the honour to request you to be so good as to impress upon the Officers of your province that the word "assessment" is not a word registered under Rule 39b of the Post and Telegraph Guide and that in future wherever Income-tax Officers at Mofussil stations should be addressed "Income-tax Officer" so as to minimise the chances of misdelivery or non-delivery.

I have the honour to be,
Sir,
Your most obedient servant,

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
25 MAY 1939
5336.
Diary No.....
File No.....

OFFICE OF THE COMMISSIONER OF INCOME-TAX, MYSORE.
MAY 24 1939
2267

RC-31/39.

16-5-39.

(129

From

The Chief Superintendent,
Central Telegraph Office, Calcutta.

To

The Income-tax Officer,
Imperial Secretariat Building,
3, Govt. Place, West, Calcutta.

Memorandum No. A 86/48 Dated Calcutta, the 13th April, 1939.

Subject - Registration of abbreviated addressees in terms of Rule 395 of the Post & Telegraph Guide.

Since it has been observed that quite a number of his telegraphic communications are addressed by the unregistered abbreviated address "Assessment" he is requested to get the word registered in terms of the rule quoted above on payment of the usual fees (Rs. 12/- six monthly or Rs. 20/- annually) or in the alternative to inform his correspondents to address telegrams by full name or designation and address, in future.

Telegrams addressed by unregistered abbreviations are liable to misdelivery or **nondelivery.**

Sd. Illegible,

For The Chief Superintendent,
Central Telegraph Office, Calcutta.

* * * *

PR.

S.N.68

OFFICE OF THE
H'BLE THE RESIDENT
IN MYSORE, BANGALORE.
29 MAY 1939
Diary No. 5466
File No.

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 22nd May 1939.

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,
(including the Commissioner of Income-tax
(Central), Bombay).

All Chambers of Commerce and
Trade Associations.

Sir,

Income-tax - Deduction of,
from salary etc. - Memorandum
of instructions for.

S.N.40

In continuation of my letter C.No.35(3)-I.T./39, dated the 3rd April 1939, on the above subject, I am directed to say that in the Note appended to Example 2 in paragraph 14 of the Memorandum forwarded therewith for the word 'payable' the words 'expected to be paid' should be substituted. I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

I have the honour to be,

Sir,

Your most obedient servant,

23 - 5 - '39.

First Secretary, Central Board of Revenue.

Copy forwarded to all Heads of Departments subordinate to the Board.

Copy also forwarded to the Income-tax Adviser to the Board.

JIP.23/5.

SN·69

125

N.N.S.V

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
26 MAY 1939
Diary No. 5381
File No.

RO 31/39

C.No.1(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 13th May 1939.

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Commissioners of Income-tax,
Major Provinces.

Sir,

All India Income-tax Report and Returns - Preparation of -.

Board's Memorandum No. 322-I.T., dated the 3rd March 1924.

I am directed to say that the Board has decided that the paragraphs relating to income-tax establishment and the rulings of High Courts and the Privy Council, cf. paragraphs 2 and 15 of the All India Annual Report for 1936-37 should be omitted from your report for the year 1938-39 as also from future reports.

I have the honour to be,
Sir,
Your most obedient servant,

26 May

First Secretary, Central Board of Revenue.

Copy forwarded to -
The other Commissioners of Income-tax,
The Commissioner of Income-tax (Central), Bombay,
The Income-tax Adviser to the Board.
By order, etc.,

26 May

First Secretary, Central Board of Revenue.

M.18.5.

S.N.70

M.N.S.V

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
26 MAY 1939
Diary No. 5383
File No.

D.A.Dis.No.4(10)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 9th May 1939.

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

Messrs. Rajagopal and Company,
Government Diplomates in Accountancy,
Agraharam Street, Erode,
(Madras Presidency).

Gentlemen,

Indian Income-tax Act, 1922 - Section 25(3) - Order passed under - Appeal -.

With reference to your letter dated the 26th April 1939, I am directed to say that cases which may arise under section 25(3) are:-

(a) an assessment may, contrary to the provisions of the sub-section, be made on the profits of the period between the end of the previous year and the date of discontinuance

(b) a claim to a refund of the difference between the tax applicable to that period and the tax paid on the profits of the previous year may be refused

(c) an assessment may be made after the date of discontinuance on the previous year's profits and the whole tax on those profits demanded.

Section 25(3) imports section 23 and in all these three cases an appeal will lie

under.....

under section 30. In case (b) the appeal will be against a refusal of a refund under section 48.

I have the honour to be,
Gentlemen,
Your most obedient servant,

T.S.Pillay,

First Secretary, Central Board of Revenue.

Copy, with a copy of the letter replied to, forwarded for information to:-

(1) All Commissioners of Income-tax including the Commissioner of Income-tax (Central), Bombay

(2)All appellate Assistant Commissioners

(3) The Income-tax Adviser to the Board.

By order, etc.,

K. B. Dab
17.5.39.

for First Secretary, Central Board of Revenue.

M.16.5.

(129)

Copy of letter dated the 26th April 1939, from Messrs. N.C.Rajagopal & Co., Government Diplomates in Accountancy, Agraharam Street, Erode, (Madras Presidency), to the Secretary, Central Board of Revenue, New Delhi.

Re: Indian Income-tax Act - Relief under Section 25(3) - Appellate Powers.

We have the honour to submit that no provision for appeal against the orders of the Incometax Officer refusing to grant relief under Section 25(3) is provided in the Act. The only course open to the assessee is to approach the Commissioner of Income-tax. If he declines to call for the records, the law does not give the assessee any power to take any further steps. We therefore request you to take such steps as you may think fit, so that the Commissioner may hear the case and pass such orders as he thinks fit.

C.No.30(10)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 26th May 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,
(including Commissioner of Income-tax
(Central), Bombay.

...THE
...RESIDENT
...GALORE.
Diary No. 5535
File No.....

Sir,

Indian Income-tax (Amendment) Act, 1939 - Notes for the Guidance of Officers.

....

In continuation of my letter C.No.
* With reference to your letter No.
@ With reference to your letter No.

30(10)-I.T./39, dated the 16th May 1939,
B.& P. 100/1939/40, dated the 23rd May 1939,
A-85/5, dated the 23rd May 1939,

on the above subject, I am directed to forward 17 copies of the Notes for the Guidance of Officers. (Further copies, if required, will be sent on receipt of your reply).

* C.I.T.(Central), Bombay.
@ C.I.T., Bihar & Orissa.

( ) not to C.I.T. (Central), Bombay and the C.I.T., B. & O.

2. It will be noticed that copies of the 'Note' are for departmental use only and the contents thereof should not be communicated to the public.

I have the honour to be,
Sir,
Your most obedient servant,

T.S. Pillay

First Secretary, Central Board of Revenue.

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CONFIDENTIAL.

(Not to be communicated to the public.)

The Indian Income-Tax (Amendment) Act, 1939.

Notes for the Guidance of Officers.

CONFIDENTIAL

(Not to be communicated to the public.)

THE INDIAN INCOME-TAX (AMENDMENT) ACT, 1939.

NOTES FOR THE GUIDANCE OF OFFICERS.

(1) *Columnar Statement of the Act.*—A copy of the Indian Income-tax Act, 1922, as amended, has been prepared in a columnar form showing each section of the Act before and after amendment. A copy of this Columnar Statement is being supplied to every Gazetted Officer of the Department and to every Inspector and Examiner. The changes made by the Amending Act should be carefully studied in the Columnar Statement and, as many of the changes are far reaching, **no action should be taken in respect of any assessment, refund or appeal until the appropriate sections have been fully understood.**

(2) *The purpose and use of these Notes.*—The following notes have been prepared in order to enable officers of the Department to understand the changes more readily. These informal notes, which cover all amendments other than those which are purely formal or consequential, are for departmental use only. They must be regarded as *confidential* and must not be quoted in any order or in correspondence with members of the public.

(3) *The date upon which the various provisions of the amending Act come into force.*—Part I of the Act which contains all amendments, other than those relating to and consequent upon the setting up of an Appellate Tribunal, comes into force on the 1st of April 1939, subject to the proviso that sub-clauses (*iii*) and (*iv*) of clause (*b*) of section 11 of the Amending Act which amend clauses (*vi*) and (*vii*) of sub-section (2) of section 10 of the 1922 Act are not to take effect earlier than the 1st of April 1940. Part II of the Amending Act is to come into force on a subsequent date, not being later than the 1st of April 1941, as the Central Government may appoint. It is not anticipated that Part II of the Amending Act is to come into force before the 1st of April 1941, and no action is required for the time being in respect of that part of the Amending Act.

Subject to the above, the provisions of Part I of the Amending Act, which relate to changes in the incidence of taxation and to the method of computing income, are effective in respect of all assessments made for the year 1939-40 (based on the income of 1938-39) and for subsequent years. Those provisions of Part I of the Amending Act which make administrative changes (*e.g.*, the appointment of Appellate and Inspecting Assistant Commissioners to perform separate functions) come into force from the 1st of April 1939 for all purposes, including the completion of existing proceedings relating to assessments earlier than the assessments for the year 1939-40. It should be noted therefore that no person who has been appointed as an Inspecting Assistant Commissioner may on or after the 1st of April 1939 make any appellate order and that the new jurisdictions for Appellate Assistant Commissioners come into force as on that day for all the purposes of the Act, and that they should not on or after that date do anything which is inconsistent with their restricted functions under the amended Act. In any case of doubt the matter should be referred immediately to the Central Board of Revenue through the Commissioner.

SECTION 2.

Clause 6-A.—The definition of "dividend" is designed to prevent the avoidance of super-tax by the capitalisation of profits and their distribution in a capital form such as bonus debentures, etc., and applies to all companies, whether private or public. The definition also covers the case where a company goes into liquidation and the accumulated profits are distributed by the liquidator to the former shareholders. If any difficulty is experienced, and in any case in which it is thought that a distribution should be treated as capital, the Inspecting Assistant Commissioner should be asked to report the facts to the Income-tax Adviser through the Commissioner.

Clause 6-C.—The definition of "income" has been expanded so as to cover certain items which are being made taxable but which might otherwise be regarded as capital sums.

Clause 11: "*Previous Year*".—The changes made eliminate certain anomalies which formerly existed in cases in which an assessee had previously been assessed but had not exercised any option to take a date other than 31st March and in cases of new businesses. In future the "previous year" is to be ascertained as follows:—

(1) It is to be ascertained separately for each source of income. For example, an assessee may have the year ended 31st March for dividends and property, some other date for the income of one business and yet another date for another business.

(2) Whenever the assessee has previously been assessed in respect of any source of income, then, whether the previous year was formerly 31st March or any other date, he can choose another date only with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer thinks fit. When an assessee wishes to change the previous year and the case is one to which the proviso to sub-clause (*a*) applies, the Income-tax Officer should, as one of the conditions, insist upon a written statement of the reason for wishing to make the change. If the Income-tax Officer is satisfied that the reason given is genuine and proper he should allow the change, and should take as the previous year the full period from the first day following the end of the period taken as the "previous year" for the preceding year's asessment, to the end of the new previous year whether such period is greater or less than 12 months. **The Instruction formerly in P. 6 (v) and (vi) of the Manual with regard to the rate of tax is withdrawn, and the rates of tax to be applied are the full rates applicable to the assessee's total income as determined. whether that total income includes profits for a period greater or less than 12 months.** In any case in which the Income-tax Officer has reason to believe that the object, or one of the objects of changing the date to which accounts are being made up is the avoidance of tax, he should refuse to allow the assessee to exercise the option. If the Income-tax Officer is in doubt he should seek the advice of the Inspecting Assistant Commissioner before passing any order.

(3) In the case of a new business set up in the financial year preceding the year of assessment, the "previous year" is either—

(*a*) the period from the date of setting up the business to the next following 31st March or to the last day of the period determined by the Central Board of Revenue under sub-clause (*b*), or

(*b*) at the option of the assessee, the period from the date of the setting up of the business to the date to which the accounts are made up,

provided that if the first accounts are made up to a date after the next following 31st March there is deemed to have been no previous year. This option is not given in any case or class of case for which the Central Board of Revenue have determined the previous year under sub-clause (*b*).

Thus, if the accounts of a business set up on 1st June 1939 are made up to 31st December 1939, the period 1st June 1939 to 31st December 1939 can, at the assessee's option, be taken (instead of the period from 1st June 1939 to 31st March 1940) as the previous year for the assessment for 1940-41. If, however, the accounts are made up to 31st May 1940, then, if the assessee elects to have the year ended 31st May as his previous year, the year ended 31st May 1940 will be the previous year for the assessment for 1941-42, and there will be deemed to have been no previous year for this business for 1940-41.

(4) When the assessee is a partner in a firm, the year determined as the previous year in the case of the firm will also be the previous year for the partner in respect of his share of the income from the firm.

Clause 15 : "*Total income*".—The changes made in the definition of total income are consequential upon changes made elsewhere (*e.g.*, Section 4 and Section 16).

"*Total world income*".—This definition is required for the purpose of computing the tax payable on total income by non-residents [see in this connection section 17 (1)]. It should be observed that the deduction of Rs. 4,500 from unremitted foreign income given to residents in computing total income under the third proviso to section 4 (1) is not allowable in computing the total world income of a non-resident.

SECTION 3.

General.—This section has been adapted to the Slab system of rates in the Finance Act, and has also been amended consequent upon the changes made in the taxation of partners of firms and members of associations.

The Slab System.—Special attention is drawn to the new system of rates under which, instead of a single rate being charged on the total income, different "slabs" of income are charged at different rates as has always been the case with the charge of super-tax. The rates for 1939-40 are laid down in the Finance Act, 1939, and are as follows.

Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 1,500 of total income	*Nil.*
2. On the next Rs. 3,500 of total income	Nine pies in the rupee.
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee.
4. On the next Rs. 5,000 of total income	Two annas in the rupee.
5. On the balance of total income	Two annas and six pies in the rupee.

Provided that—

(*i*) no income-tax shall be payable on a total income which does not exceed Rs. 2,000;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 2,000.

B. In the case of every company and local authority, and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.
On the whole of total income	Two annas and six pies in the rupee.

Rates of Super-tax.

A. In the case of every individual, Hindu undivided family,* unregistered firm and other association of persons, not being a case to which paragraph B of this part applies—

	Rate.
1. On the first Rs. 25,000 of total income	*Nil.*
2. On the next Rs. 10,000 of total income	One anna in the rupee.
3. On the next Rs. 20,000 of total income	Two annas in the rupee.
4. On the next Rs. 70,000 of total income	Three annas in the rupee.
5. On the next Rs. 75,000 of total income	Four annas in the rupee.
6. On the next Rs. 1,50,000 of total income	Five annas in the rupee.
7. On the next Rs. 1,50,000 of total income	Six annas in the rupee.
8. On the balance of total income	Seven annas in the rupee.

B. In the case of every company and local authority—

	Rate.
On the whole of total income	One anna in the rupee.

**Note.*—The special limit of Rs. 75,000 for Hindu undivided family has been withdrawn.

Previous year's rates of income-tax and super-tax for salaries, interest on securities and dividends.—Section 6 (4) of the Finance Act, 1939 reads as follows:—

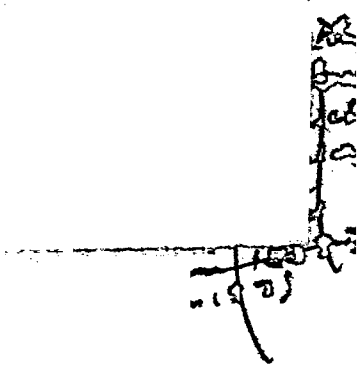
(4) Notwithstanding anything contained in sub-sectoin (1) or sub-section (2), where more than half of the total income of any individual or Hindu undivided family consists of income from salaries, interest on securities or dividends in respect of which the individual or Hindu undivided family is deemed, under the provisions of section 49-B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, or consists, of income falling under more than one of those heads—

(*a*) income-tax for the year beginning on the 1st day of April, 1939 shall be charged in respect of such total incomes at the rates of income-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, and

(*b*) in cases in which super-tax has been deducted under the provisions of section 18 of the said Act or would have been so deductible had the Indian Income-tax (Amendment) Act, 1939, come into force on the 1st day of April 1938, the rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates of super-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, as the case may be."

and (ii) that in all salary cases in which the salary income earned in 1938-39 exceeded Rs. 30,000 and also in those few cases in which super-tax is deducted at source from dividends, and in which more than half the total income is from salaries, dividends and interest on securities, the previous year's rates of super-tax are to be applied in making the assessment for the year 1939-40."

the income from
the total income
s on the "step"



(*c*) Superannuation Fund contributions;

(*d*) Interest on Tax-free Securities;

(*e*) Income from a share in an unregistered firm;

reference should be made to section 15 and section 17 (2).

The tax to be deducted from salaries and the relief to be given in respect of Life Insurance Premiums, etc., is to be calculated by reference to the average rate of income-tax on the whole income. A Ready-reckoner has been issued showing for all incomes up to Rs.25,000 per annum (and for certain incomes above that limit) the tax to be deducted each month and the average rate of income-tax at which relief in respect of the above items is to be given. A copy of this Ready-reckoner should be requisitioned for each Income-tax Office. Whilst super-tax is also deductible from salaries at the average rate of super-tax no relief for Life Insurance Premiums, etc., is to be given in respect of supertax.

SECTION 4.

1. *Taxation of income arising abroad.*—Assessees are in future to be divided into three classes, and the extent to which their incomes will be liable to tax is as follows:—

(1) *Persons not resident in British India.*—Such a person is chargeable on all income accruing, arising or received, or deemed to accrue, arise or be received in British India. Under *Explanation 2* to sub-section (1) a salary earned in British India is deemed to accrue or arise in British India even if it is payable abroad. Similarly, a dividend paid without British India is,

under *Explanation 3*, deemed to accrue or arise in British India to the extent to which it has been paid out of profits subjected to income-tax in British India. The recipient of such a dividend is therefore liable to super-tax if his total income, including such dividends, exceeds Rs. 25,000 (or Rs. 30,000 if the 1938-39 rates are applicable.)

Under the amended section 42, income arising from any business connection in British India, or through or from any property in British India, or through or from any asset or source of income in British India, or through or from any money lent at interest and brought into British India in cash or in kind is to be deemed to be income arising within British India.

(2) *Persons resident but not ordinarily resident in British India.*—Such a person is chargeable in respect of (*a*) all income accruing, arising or received, or deemed to accrue, arise or be received in British India, (*b*) the whole of the profits of any business controlled in India, or of a profession or vocation set up in any part of India (including the Indian States), whether the profits of such trade, profession or vocation are brought into British India or not, and (*c*) from all other income arising outside British India if brought into British India. The assessment in respect of income brought into British India extends to all income which has accrued or arisen after the 1st day of April 1933.

(3) *Persons ordinarily resident in British India.*—These persons are assessable in respect of (*a*) all income referred to in clauses (*a*) and (*b*) of sub-paragraph (2) above; (*b*) *all other income accruing or arising outside British India in the previous year even though it is not brought into British India*; (*c*) all amounts brought into British India during the previous year out of income which accrued before the beginning of such year and after the first day of April 1933. For the year *1939-40 only* the assessment is not to include both the income which accrued or arose without British India during the previous year and the amounts brought into British India during the previous year out of income which accrued before the previous year but only the greater of these two sums, and for all years a sum of Rs. 4,500 is to be deducted from the income arising abroad in the previous year but not brought into British India.

Great care and discretion will be required in checking returns with regard to income falling under (3) (*b*) above in order to avoid the harassment of assessees by unnecessarily requiring evidence to be obtained from abroad; and in the case of officials and other persons not engaged in business, a properly completed and verified return showing the unremitted foreign income at "nil" or "under Rs. 4,500" should normally be accepted unless there is reason to believe that the return is incorrect. It should be remembered also that if such persons make false declarations the Income-tax Officer retains the power to reopen for eight years, and also has the power to impose very heavy penalties.

For the method of determining whether a person is (*a*) not resident, (*b*) resident but not ordinarily resident, or (*c*) ordinarily resident in British India, reference should be made to the Notes on sections 4A and 4B below.

(4) *Income of a wife from a non-resident husband.*—Under sub-section (2) remittances received by a wife resident in British India out of her husband's income,, where the husband is resident abroad, are to be included in her total income if they have not already been included in his total income. Steps

should be taken to see that returns are issued to, and this point drawn to the attention of, any person who is resident in British India and who appears to be maintained by her non-resident husband.

(5) *Charitable Trusts.*—Business income of a Charitable Trust is specifically exempted under the new clause (*i*) (*a*) of sub-section (3) when the income is applied solely to the purposes of charity, and either (*a*) the business is carried on in the course of the carrying out of a primary purpose of the charity, or (*b*) the business is carried on mainly by the beneficiaries. Thus, an institute for the blind which sold the products of blind workers who are being maintained by the institute would be exempt. In any case of doubt, the Income-tax Officer should consult the Inspecting Assistant Commissioner before passing any order.

(6) *Local authorities.*—The limited extent to which local authorities will be liable to income-tax in future is set out in clause (*iii*) of sub-section (3). After consultation with the Inspecting Assistant Commissioner a notice under section 22 (2) should be served upon any local authority which is known or believed to be carrying on business which may include the supply of commodities (including electricity and water) or services outside its own jurisdictional area. With the notice the Income-tax Officer should enclose an extract of the relevant sub-section of the Act. Before any assessment is made on a local authority the record and miscellaneous file should be referred to the Income-Tax Adviser through the Commissioner.

(7) *Capital sums.*—The deletion of clause (*v*) of sub-section (3) does not make any general change in the law, and capital sums remain exempt from taxation. The position with regard to payments out of provident funds or similar funds, however, is dealt with in the Notes on section 7.

(8) *Definition of 'Charitable purpose'.*—The definition of 'Charitable purpose' has been restricted by the closing words of section 4 and in future that part of the income of a private religious trust which does not inure for the benefit of the public is not exempt from tax. Income-tax Officers should take steps to see that the income of all private religious trusts is investigated and assessed strictly in accordance with the wording of the amended section. A trust in favour of a family deity is included in the expression "private religious trust".

A trust should not be treated as not inuring to the benefit of public merely by reason of the fact that the beneficiaries are restricted to one community or one definite section of the public.

Sections 4A and 4B.

Definitions of (*a*) *non-resident,* (*b*) *resident but not ordinarily resident, and* (*c*) *ordinarily resident.*—Section 4A prescribes the conditions for separating non-residents from residents, and section 4B prescribes the conditions for dividing this second class (the residents) into two sub-classes, (*i.e.*, those not ordinarily resident and those ordinarily resident). Income-tax Officers should be careful to see that the conditions of section 4A for determining whether a person is resident are satisfied before attempting to apply the conditions of section 4B.

The conditions for determining whether an individual is resident or non-resident in British India are quite clearly set out in sub-clause (*a*) of section 4A. Similarly, no difficulty should be experienced in determining whether a Hindu undivided family, firm or other association of persons is resident or not resident. In the case of a company, however, some difficulty may be experienced in determining whether its income arising in British India exceeds its income arising without British India. In this connection Income-tax Officers should be careful to note that it is only the income arising in British India and not the income which may be *deemed* to arise in British India which has to be taken into account, and that therefore dividends paid abroad, which can only be deemed to be income accruing or arising in British India under *Explanation* 3 in sub-section (1) of section 4 should not be taken into account. In any case in which the Income-tax Officer is in doubt whether to treat a company as resident or not resident, the Inspecting Assistant Commissioner should be consulted, and, if he too is in doubt, the facts should be reported through the Commissioner to the Income-Tax Adviser before any order is passed.

A resident individual is ordinarily resident in British India if (*a*) he has been resident (as defined in section 4A) in at least 9 out of the 10 preceding years, AND (*b*) he has been in British India for periods amounting in all to more than two years during the seven preceding years. Unless BOTH conditions are satisfied, he is to be treated as not ordinarily resident.* It should be carefully noted that in determining whether he is resident in at least 9 out of the 10 preceding years for the purpose of (*a*) above, each preceding year is to be taken separately and the conditions of section 4A are to be considered separately in relation to each year. On the other hand, in determining for the purpose of (*b*) above whether the person has been in British India for periods amounting in all to more than two years, the aggregate of broken periods, however short, during the seven years is to be taken.

For the purpose of determining whether a person has been in British India for a period of, or for periods amounting in all to, more than 365 days within the past four years, or for determining whether a person has been ordinarily resident under section 4B, the Income-tax Officer may find that there is very little evidence of a conclusive character which, for the periods laid down in the Act, may, in the case of ordinary residence, extend back for 10 years. The presumption should in such cases be made that if a person has been assessed to income-tax as a resident for any year he was resident within the meaning of the new definition, and action should be taken on the basis of such a presumption unless there is conclusive and reliable evidence to the contrary.

In all cases the circumstances of the previous year, and not those of the year for which the assessment is to be made govern the extent of liability to tax.

Businesses of residents of British India controlled in India with branches abroad.—One very important thing to observe is that the whole of the income of such businesses is to be assessed on the basis of the profits and gains accruing or arising in the previous year, whether or not those profits or any part of them have been brought into British India. This change applies to the

* The "or" used in the Act becomes "and" when the negative conditions of non-residence are converted into the positive conditions of residence.

assessments made for the year 1939-40 based upon the income of the preceding year and to all assessments for subsequent years. In determining whether a business is controlled in India (and Income-tax Officers are again reminded that India here means the whole of India so that a business controlled in an Indian State is included), the general presumption should be made that if an individual is resident in British India he controls his business in India. This presumption can only be rebutted by very strong evidence that the assessee is not controlling his own business, or that though resident in British India he controls his business outside India. Both of the latter circumstances are improbable in the case of individuals.

An undertaking was given by Government in the Assembly that if regular and properly audited accounts are furnished in respect of incomes arising outside British India *and the Income-tax Officer has no reason to believe that those accounts are incorrect*, the foreign branch books would not be called for and that even in other cases books will not be called for if the figures of income can be obtained in a more satisfactory way. Income-tax Officers should bear in mind that it may be extremely difficult for an assessee to bring books in respect of foreign branches to British India, and if properly audited accounts are produced and if there is no evidence to indicate that these properly audited accounts are incorrect, the Income-tax Officer should accept the results shown in them making such adjustments as are required by the provisions of section 10.

SECTION 5.

Income-tax authorities.—On and after the 1st of April 1939, all Assistant Commissioners are divided into two classes: (*a*) Appellate Assistant Commissioners, and (*b*) Inspecting Assistant Commissioners. The former are given appellate functions only and must in no circumstances inspect the offices of, or in any way exercise any control over, the Income-tax Officers in their jurisdictions. On the other hand, the Inspecting Assistant Commissioners to whom the Income-tax Officers will in future look for guidance and instructions must not be given jurisdiction to hear appeals. This division of work has statutory force, and if the new provisions are departed from in any case the whole proceedings in that case may be invalidated. Income-tax Officers should also note that in future they should refer all matters of difficulty to the Inspecting Assistant Commissioner, and that under the amended Act they are quite free to do this but in no circumstances should they consult the Appellate Assistant Commissioner. Detailed instructions with regard to the work to be done by the Inspecting Assistant Commissioner will be issued in due course.

The power given to the Central Government to appoint Commissioners of Income-tax without reference to area is for the purpose of giving jurisdiction to any Commissioner or Commissioners who may be appointed for special cases or classes of cases as directed by the Central Board of Revenue. One such Commissioner has already been appointed under the designation Commissioner of Income-tax (Central) and he has his office at Bombay.

Under sub-sections (7) and (8) all Assistant Commissioners and Income-tax Officers are subordinate to the Commissioner of Income-tax for the area in which they perform their functions (or where they perform functions assigned to them by a Commissioner appointed without reference to area to that

Commissioner), and it is also specifically provided that all officers and persons employed in the execution of the Income-tax Act are to follow the orders, instructions and directions of the Central Board of Revenue.

Appellate Tribunal.—The Appellate Tribunal to be appointed under the Act will not function until 1st April 1941, and further instructions with regard to proceedings before that body will be issued in due course.

SECTION 6.

The changes in the classification of incomes should be carefully noted. The principal change is that profits and gains of businesses, professions or vocations are included under one head in future.

SECTION 7.

Sub-section (1).—In future the amount of income liable under the head "Salaries" is—

(*a*) any amount due, whether paid or not, in the previous year; and

(*b*) any amount actually paid unless it has been assessed in an earlier year.

Any advance of salary is deemed to be salary due on the date when the advance is received. An advance of salary must be distinguished from other advances such as house-building advances which are loans and not advances of salary.

Income-tax and Super-tax are deductible under section 18 (2) on the amount actually paid. Any income liable under the head "Salaries" but not actually paid or from which the tax has not been deducted is to be directly assessed upon the employee.

Provision is made for an allowance in respect of any sum which the assessee *by the conditions of his employment* is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duties. A claim in respect of such an allowance is to be dealt with at the time the assessment is being made and any excess sum deducted at source should be refunded. If the Income-tax Officer finds that the employer when deducting tax allows any claim to be made by the employees for expenses he should inform him that such claims should not be allowed unless the expenses represent a considerable proportion of the total emoluments, or the Income-tax Officer has already agreed the amount to be allowed.

In computing the expenses to be allowed on such a claim the wording of the Act is to be strictly followed and in particular no allowance is to be granted in respect of expenses which do not fall completely within the following conditions:—

(*a*) the assessee must by the conditions of his employment incur the expenses;

(*b*) the expenses are incurred wholly, necessarily and exclusively in the performance of his duties.

Expenses of a private character are not therefore to be allowed. Moreover, the words *in the performance of his duties* are important and exclude any allowance of expenses incurred to enable an employee to reach his place of

employment. Travelling expenses therefore between the place of residence and the place of employment are not in any circumstances to be allowed. Once the place of employment has been reached, travelling expenses which are essential in the performance of the duties are allowable, but no such expenses should be allowed if they are incurred for the purpose of enabling the assessee to get from the place of one employment to the place of a different employment or to the place in which he earns income from some other source.

Explanation 2.—The addition of this Explanation renders ineffective for the future the Privy Council decision in the case of B. J. Fletcher.* In future lump sum payments (other than payments made *solely* as compensation for loss of employment) received by an employee from an employer, or former employer, or from provident funds (which are neither provident funds to which the Provident Funds Act, 1925, applies, or provident funds approved under Chapter IXA) are to be taxed, whether or not the employment is terminated or is to be terminated; but any amount included in respect of the employee's own contributions or interest on those contributions is to be excluded from the assessment. Any payment from a superannuation fund approved under Chapter IXB made on the death of a beneficiary or in lieu of or in commutation of an annuity or by way of refund of contributions on the death of a beneficiary or on his leaving the employment are also exempt from taxation.

SECTION 8.

A set off, against income from interest on securities, of interest payable on money borrowed for the purpose of investment in securities was formerly allowed under paragraph 39 of the Income-tax Manual, but this is now made statutory subject to an important exception. No allowance is to be given in respect of any interest chargeable under the Act which is payable without British India (not being interest on a loan issued for public subscription before the first day of April 1938) unless in respect of such interest tax has already been paid by the recipient, or has been deducted under section 18, or unless there is a person who may be appointed as an agent under section 43. The object of this exception is to furnish a means of collecting the tax on interest paid to persons abroad where the machinery for such collection would not otherwise exist. It should be noted, however, that the interest which falls within this exception must be interest *chargeable to tax* under the Act, so that interest paid abroad in respect of a loan raised abroad, the proceeds of which have been invested or utilised entirely abroad and not brought into British India would not fall within this exception and would therefore be allowable.

SECTION 9.

Sub-section (1).—Apart from minor consequential changes, the change made in the first paragraph of sub-section (1) has the effect of withdrawing any exemption which may have existed in respect of the annual value of properties utilised by the owner for the purpose of a business where the profits of that business were not liable to income-tax (*e.g.*, because the transactions were mutual). Thus, it is now only when the full profits of a business, profession or vocation are assessed to income-tax that the annual value of the property used by the owner for the purposes of the business is exempted by the wording of section 9 (1).

* (See Income-Tax Reports, Volume V, page 428).

Sub-clause (*iv*).—The change in this sub-clause remedies several defects in the original wording. In the first place, whilst provision had been made for the allowance of interest on a capital charge, no allowance was given for any annual charge other than interest or ground rent. Secondly, the allowance for interest was previously given when the property was *acquired* with borrowed capital and this has now been extended to cover interest on money borrowed to construct, repair or renew the property. The allowance is due as and from 1939-40 whether the construction, repair or renewal was effected before or after 1st April 1939. The same provision, which is explained in the Notes on section 8 with regard to the disallowance of certain interest payable outside British India, applies to section 9 also.

Sub-clause (*v*).—Formerly the Income-tax Officer was left to determine the amount to be allowed in respect of vacancies and he was given directions in the Income-tax Manual as to the manner in which he should compute the allowance. This has now been changed and the method of computing the allowance is set out in the section itself. It is to be noted particularly that the amount to be given is not the proportion of the *gross* annual value which the vacant period bears to the year but the proportion of the *net* value after deducting all other allowances which are to be given.

The provision for allowing vacancies where the property is let in parts must not in any circumstances be applied to cases in which it is let as a whole. The relief is intended for tenement and similar properties only.

Attention is also drawn to the deletion of the proviso which formerly restricted the allowances, including the allowance for interest, to the annual value of the property. In future, if allowances exceed the annual value, the excess can be set off under section 24 against other income.

Sub-section (3).—This new sub-section is important and should be strictly followed. All cases in which property has in the past been assessed as the property of an association of persons should be carefully investigated to ascertain the true owners. This is particularly important where any attempt has been made to avoid tax by putting property into joint names.

SECTION 10.

General.—This section now covers the profits and gains of business, profession or vocation, and section 11 has been deleted from the Act.

Sub-section (2).

Sub-clause (*i*).—The words "proportional part" have been replaced by the words "proportional annual value of the part", and the object of this change is to ensure that, where a part only of a certain premises is used for the purpose of the business, profession or vocation, the rent to be allowed is to be proportional not to the physical area of the portion so used but to the value of the area so used. Thus, in the case of premises with valuable ground floor rooms which are used for business purposes and less valuable upstair rooms, the proportional annual value of the part used for the purpose of the business will be greater than the proportion determined solely by reference to area.

Sub-clause (*iii*).—Three important changes have been made in this sub-clause—

(*a*) the disallowance of interest which is dependent upon the earning of profits is withdrawn ;

(*b*) *in the case of a firm all interest paid to a partner of the firm is to be disallowed, whether the interest is interest on capital or interest on a loan* ;

(*c*) the restriction referred to in the Notes on section 8 with regard to interest payable abroad applies here also and all such interest is to be disallowed unless it comes strictly within the exception set out in the Act. **This provision is of the greatest importance and it is essential that all Income-tax Officers understand and follow it.**

Sub-clauses (*vi*) *and* (*vii*) *Depreciation and obsolescence.*—The changes in the sub-clauses, are not to take effect prior to the 1st day of April 1940, and it should be observed, that, in computing the profits for asessment for the year 1939-40 on the income of the year 1938-39, the old basis of computing allowances on the cost of the assets is to be followed, and where full effect was not given to any depreciation allowance for an assessment for the year 1938-39 or any earlier year, it should be set off against the assessment for the year 1939-40. Further instructions will be issued in due course with regard to the assessments for the years 1940-41 onwards.

Sub-clause (*xi*).—The basis upon which bad debts are to be allowed has been made statutory and provision is made for the allowance of doubtful debts (and for irrecoverable loans in the case of an assessee carrying on banking or money lending) to the extent that they are estimated by the Income-tax Officer to be irrecoverable. In future, therefore, where an assessee claims that a debt is doubtful, and the Income-tax Officer on enquiry estimates that part only of the debt is likely to be recovered, he should allow the balance of the debt as a doubtful debt under this section, provided that not less than the amount claimed has been written off in the books. It is important, however, that any subsequent recovery in excess of the original amount estimated should be brought into the assessment of the profits of the year of recovery as a profit of that year, and that any further loss, where the amount recovered is less than the amount originally estimated, should be allowed as a further bad debt. The Income-tax Officer should, in any case in which the allowance for bad and doubtful debts in the assessment differs from the allowance in the assessee's books, keep a careful record so that for subsequent years the correct adjustment can be made when the debt has been finally cleared.

Sub-clause (*xii*).—The amendment made in sub-clause (*xii*) is not very material. Subject to the exclusion of all expenditure in the nature of capital expenditure or personal expenses, all expenditure laid out wholly for the purpose of the business, profession or vocation should be allowed, whether or not such expenditure can be said to be directly *for the purpose of earning such profits and gains.* It is sufficient that the expenditure should be laid out *for the purpose of the business, profession or vocation.*

Sub-section (*3*).—The new sub-section makes statutory what was already a common practice.

Sub-section (4).

Sub-clause (a).—Just as interest payable abroad from which tax has not been deducted (with certain exceptions) is to be disallowed, salaries payable outside British India are to be disallowed if the salaries in question are chargeable under the head "Salaries" and tax has not been paid thereon nor deducted under section 18. It will not be correct to disallow any salaries paid abroad *for services rendered abroad by a non-resident* as such salaries are not chargeable to Income-tax But any salaries (including leave salaries but excluding pensions) paid abroad but earned in British India are chargeable to tax under Explanation 2 to sub-section (1) of section 4 of the Act and should be disallowed unless the tax has already been paid thereon either by the employee direct or by the employer.

Sub-clause (b).—All payments to a partner of a firm, whatever those payments are called, are to be disallowed in the assessment on the firm. These payments are to be taken into account when computing his share of the profits of the firm. Three examples showing how such payments should be treated in the assessment on the firm and in the division of the profits of the firm are given in the Notes on section 16 (1) (*b*).

Sub-section (5).—The expansion of the definition of 'plant' to include vehicles, books, scientific apparatus and surgical equipment is more in the nature of an explanation than of a change of substance.

The definition of "written-down value" is not required for the assessment for the year 1939-40.

Sub-section (6).—A trade, professional or similar association is in future to be assessed in respect of profits made from performing specific services for its members where it makes a charge based upon the amount of services rendered. Where such an association charges a fixed annual fee to all members and does certain services for its members as and when the occasion arises without making any extra charge, no liablity exists.

A club which provides social, sporting or similar amenities is not to be assessed and no attempt made to assess profits from the sale of food, drinks, etc., at such a club unless the club sells to non-members.

Sub-section (7).—The statutory rules relating to the assessment of insurance profits have been withdrawn and the liability is now to be computed in accordance with the rules contained in the Schedule to the Act. Attention is drawn to those rules which are very materially different from the old rules, and to the notes on the rules.

SECTION 12.

The amendments to sub-section (2) follow the amendments in section 10 and care should be taken to see that clauses (*b*) and (*c*) of that sub-section are strictly followed.

Sub-section (*3*).—Under sub-section (3) an allowance for depreciation is given to an assessee who lets on hire machinery, plant or furniture. This allowance should be given whether or not the activities of the assessee who owns the machinery amount to the carrying on of a business.

SECTION 12A.

Where a managing agent of a company is under the terms of an agreement compelled to part with a portion of the managing agency commission, each party to the agreement is, on the filing of a declaration and on proof of the facts, to be taxed only in respect of the amount to which he is entitled to retain under the agreement. The official printed form of declaration should be used in all cases. In any case in which the Income-tax Officer is of opinion that an agreement has been specially drawn up with the object of avoiding tax, or in which tax may be lost owing to non-residence of one of the parties, he should report the facts to the Inspecting Assistant Commissioner for advice before making any order.

SECTION 14.

An important change has been made in the method of dealing with dividends from companies. In the past such dividends were exempt from income-tax under section 14 but included under section 16 in the total income of the recipient who could claim rebate or refund under section 48 in respect of the excess of the company rate over the assessee's own rate of income-tax. In future these dividends are no longer exempt from income-tax. Income-tax is to be charged on the dividends (in the same way as it is charged on interest on securities) and the full amount of tax deemed to have been paid by the company in respect of the dividend is to be allowed under section 18 (5). Any excess tax paid over the net amount due is to be refunded under section 48. The dividend is still to be grossed up under section 16 in respect of the income-tax appropriate to the taxed portion. It will be seen that the net effect is the same as under the old method but that the revised wording is more suitable to the " Slab " system of rates of income-tax. One important point to notice is that where the company has received Double Income-tax Relief, the grossing up under section 16 is still to be made by reference to the full company rate of income-tax but as explained in the Note on section 49 an adjustment is to be made in respect of any Dominion Income-tax Relief given to the company at a rate in excess of the shareholder's appropriate rate of relief.

It should be noted that this amendment of Section 14 renders obsolete the decision in the Hungeford Trust case (11 I. T. C. 46) and in future that part of a dividend which has not borne tax in the hands of the company because, *e.g.*, the income out of which it was paid arose abroad is to be taxed in the hands of the shareholder. (See in this connection Section 49-B).

SECTION 15.

Sub-section (*1*).—The changes in sub-section (1) are of a minor or consequential character only.

Sub-section (*3*).—The aggregate of the allowance in respect of sums exempted under section 15 with the amounts exempted in respect of Government provident funds, recognised provident funds and approved superannuation funds is, as in the past, to be restricted to one-sixth of the total income;

but to this a further restriction has been added, namely that the aggregate must not exceed Rs. 12,000 in the case of a Hindu undivided family and Rs. 6,000 in any other case. It should be observed that the restriction is to one-sixth of the total income or Rs. 6,000 (Rs. 12,000 in the case of Hindu undivided families), *whichever is less.*

SECTION 16.

Sub-section (1), clause (b).—As is explained in the Notes on section 10, the total of all sums received by a partner from a firm is to be treated as his income from the firm and not to be assessed separately under any other head, and the basis of dividing the aggregate profit of the firm is the basis upon which the profits assessed were in fact divided in the previous year. Whether the firm as a whole makes a profit or a loss, the partners making profits (including interest, salary, etc.) are to be assessed on the full amount of their profits and the partners who make losses are to be allowed to set off or carry forward their losses in accordance with the provisions of section 24. Three examples are appended to make this matter clear :—

Example 1.—A registered firm consisting of three partners makes a profit of Rs. 1,000 after paying interest, salaries and commission to the partners and before adjustment for certain other disallowable sums set out below. The partners share the net profits equally and have no other income. The assessments will be as follows :—

Firm's assessment.

		Rs.
Profit as per books		1,000
Add Bad debts allowed in previous years		2,000
Personal expenses		3,000
		6,000
Add also Interest to partner *A* (on capital)		3,000
,, ,, ,, *A* (on loan)		2,000
,, ,, ,, *B* (on capital)		5,000
Salary to Partner *B*		6,000
,, ,, ,, *C*		5,000
Commission to Partner *C*		3,000
Total profit of the firm		30,000

Under section 23 (5), having assessed the total income of the registered firm, no income-tax is charged on the firm but the share of each partner is included in his own total income and the tax is charged upon him direct. The assessments on the partners will be :—

Partner A.

Share in the partnership A, B and C .. Rs. 7,000

Made up as follows :—

	Rs.
Interest on Capital	3,000
Interest on Loan	2,000
Share of net profit ($\frac{1}{3} \times 6{,}000$)	2,000
Total .. Rs.	7,000

			Rs.
Partner B.			
Share in the partnership A, B and C			13,000
Made up as follows :—			
Interest on Capital	Rs. 5,000		
Salary	6,000		
Share of net profit ($\frac{1}{3} \times 6{,}000$)	2,000		
Total	Rs. 13,000		
Partner C.			
Share in the partnership A, B and C			10,000
Made up as follows :—			
Salary	Rs. 5,000		
Commission	3,000		
Share of net profit ($\frac{1}{3} \times 6{,}000$)	2,000		
Total	Rs. 10,000		
The total of the three assessments is			Rs. 30,000

Example 2.—A registered partnership of two persons makes a loss of Rs. 9,000 after paying the senior partner Rs. 15,000 interest on capital. The senior partner has other income of Rs. 6,000 and the junior partner has other income of Rs. 1,000. The partners share net profits or losses equally. The assessments will be as follows :—

Firm.

	Rs.
Loss as per accounts	9,000
Disallow interest to partner	15,000
Net profit	Rs. 6,000

As in the first example, having determined the firm's total income no tax is charged on the firm (unless either partner happened to be non-resident) and the income is divided between the partners who will pay the tax direct, the assessments being as follows :—

	Rs.	Rs.
Senior Partner.		
Share in firm A and B		10,500
Made up as follows :—		
Interest on capital	15,000	
Less $\frac{1}{2}$ share of net loss of Rs. 9000	—4,500	
	Rs. 10,500	
Other income		6,000
Total Income		Rs. 16,500
Tax chargeable on	Rs. 16,500	

Junior Partner.	Rs.
Share in firm A and B	—4,500
Made up as follows :—	
(½ share of net loss Rs. 9,000)	
Other income	1,000
Net loss to be carried forward	—3,500

It is to be observed that it is only in the case of the junior partner that there is any loss to be carried forward.

Third example.—A partnership consisting of A, B and C carried on business throughout the year ended 31st January 1939 (being the " previous year " for assessment in 1939-40) and shared profits equally, the total profits amounting to Rs. 30,000. On 1st May 1939, A retired and D became a partner, B, C and D sharing profits equally. B, C and D apply for registration which is granted.

The assessments for 1939-40 will be as follows. The firm B, C and D will be assessed because that is the firm as constituted at the time of making the assessment, but having determined the profits of the firm those profits are divided for assessment purposes between A, B and C (*not* B, C and D) because A, B and C were actually entitled to the profits in the previous year. A, B and C will each therefore be assessed on Rs. 10,000 whilst D will pay no tax in respect of partnership profits because in the " previous year " (which for him must be the same as the firm's previous year) he was entitled to no profits.

In the following year 1940-41 if there is no further change in partnership the profits will be divisible between A (⅓rd proportion of the profits from 1st February to 30th April), B (⅓rd for the whole year), C (⅓rd for the whole year) and D (⅓rd proportion of the profits from 1st May to 31st January).

If one of the partners, say B, is non-resident, the firm will be chargeable under the second proviso to section 23 (5) in respect of the tax on his share of the profits at the rates of Income-tax and Super-tax which would have been chargeable if that partner had been assessed direct.

Clause (*c*).—This is an important addition to prevent the avoidance of tax by the making of settlements or dispositions. In the main part of the clause there are two classes of settlements referred to—(*i*) those in which the assets remain the property of the settlor, and (*ii*) those in which the assets do not remain his property. In the former case the income is to be deemed to be the settlor's income, whether the disposition is revocable or not ; in the latter type of case the income from the settlement is to be deemed to be the income of the settlor if the disposition is revocable. Where assets are permanently and irrevocably transferred by one person to another person, the income from those assets is to be treated as the income of the transferee unless some other legal avoidance section [*e.g.*, section 16 (3) or section 44-D] applies.

The first and second provisos define what is meant by ' revocable ' and what is meant by ' settlement or disposition ' in very wide terms, and Income-tax Officers should be careful to see that all deeds which fall within the definitions contained in these provisos are dealt with in accordance with the section, even though they may not be settlements or dispositions in the ordinary legal sense.

Under the third proviso any income arising by virtue of a settlement which is (*a*) not revocable for a period exceeding six years, or (*b*) during the life time of the beneficiary and from which the settlor derives no benefit whatever, is not to be treated as the income of the settlor so long as the power to revoke the settlement does not arise to him.

All cases in which it is claimed that a settlement falls within the third proviso should be referred to the Income-tax Adviser through the Inspecting Assistant Commissioner and the Commissioner before any order is passed.

Sub-section (*2*).—The amendment to the main part of this sub-section and the addition of the proviso have the effect of making clear in the Act what has been the practice in the past, namely, to increase the dividend by the income-tax paid by the company in respect of the profits out of which the dividend has been paid, but for the purpose of this grossing up to exclude that part of the dividend which does not come out of the profits and gains charged to income-tax. It should be observed that the rate of company tax to be taken is the rate for the year in which the dividend is paid, credited or distributed, or deemed to have been paid or credited or distributed.

Sub-section (*3*).—The amendment of sub-clause (*iv*) of clause (*a*) is designed merely to bring the sub-clause into line with sub-clause (*iii*). The amendment of clause (*b*), however, remedies a serious defect found in the wording which was introduced into the section by the Income-tax (Amendment) Act of 1937. It was found possible to avoid the clause by transferring the assets to an association which consisted of the transferor, his wife and a third person. In future it is immaterial whether the assets are transferred to a single person or any association of persons, and provided that the assets have been transferred otherwise than for adequate consideration, if the benefit goes to the transferor's wife or minor child or to both then the income is to be deemed to be the income of the transferor. It should be observed that clause (*b*) of sub-section (3) deals only with transfers of assets for the benefit of wives and minor children and is not subject to the restrictions contained in the third proviso of clause (*c*) of sub-section (1) of section 16.

Section 17.

The original section 17 provided for marginal relief under the " Step " system of rates of tax and this is no longer necessary except for those cases which for the year 1939-40 are to be assessed at the 1938-39 rates as explained in the Notes on section 3. Under the " Slab " system a similar marginal relief is given in the Finance Act in respect of incomes which just exceed Rs. 2,000.

The new *sub-section* (*1*) lays down the basis upon which the tax is to be calculated in respect of non-residents. Where the non-resident is a British subject (or a subject of a State in India or Burma), the income-tax is to be computed by reference to world income ; in the case of any other non-resident person the income-tax is to be computed at the maximum rate (*i.e.*, the company rate of tax). Super-tax in both cases is to be computed by reference to the total world income, that is to say, the average rate of super-tax computed upon the total world income is to be applied to the income which is liable to income-tax. Thus, if a non-resident British subject has a total income of Rs. 1,000 and a total world income of Rs. 30,000 (the income not being of the

type which is assessable at the 1938-39 rates) the income-tax payable for 1939-40 will be Rs. 117-7, being Rs. 1,000 at 22·55 pies (the rate of income-tax on Rs. 30,000) and the super-tax will be Rs. 10-7, being Rs. 1,000 at 2 pies (the rate of super-tax on Rs. 30,000). If in this example the assessee is a non-British non-resident, the income-tax will be payable at the full rate of 2½ annas and the super-tax will be the same as that shown above.

Sub-section (2).—This sub-section provides the method of computing the relief to be given in terms of tax for all cases in which income is included in the total income of an assessee but is exempt from payment of tax. This covers the relief in respect of life insurance premiums, provident fund contributions and shares in an unregistered firm. Attention is drawn to the method of computing the relief under this sub-section as explained in the instructions given for the deduction of tax from salaries. It should be observed that the liability is to be computed in this manner only in respect of income-tax and that no relief is due in respect of super-tax which is chargeable upon the total income without any deduction for these sums.

SECTION 18.

Sub-section (2).—Attention is drawn to the instructions already given for the deduction of tax from salaries on and after 1st April 1939.

Sub-section (2B).—Under sub-section (2B) income-tax in respect of salaries paid to a non-resident is to be deducted at the maximum rate. Super-tax is also to be deducted at the rate applicable to the estimated income of the assessee. Where a non-resident recipient of income under the head " salaries " claims that he is a British subject and entitled to proportionate relief under sub-section (1) of section 17, this relief is to be given by repayment if income-tax has already been deducted at the maximum rate on the full income. Where possible, however, the matter should be adjusted in the subsequent deductions of income-tax for the same year and by the issue of a certificate under the proviso to section 18 (3). No correspondence should be entered into with the employer as to the amount of income of the employee under other heads, unless the recipient applies for a certificate under the proviso to sub-section (3) and specifically authorises such correspondence.

Sub-section (3).—The proviso to this sub-section has been amended to deal with new conditions raised by the introduction of the expression " total world income ", and also to enable the Income-tax Officer to issue a certificate for cases in which income-tax is deductible under sub-section (2B).

Sub-section (3A). This is a very important sub-section.—Income-tax at the maximum rate must in future be deducted from *any* interest (not being interest on securities for which separate provision has been made under sub-section (3) or *any other sum* chargeable under the Act where the recipient of such interest or other sum is not resident in British India, unless the payer is liable to pay tax thereon as an agent. The other sums chargeable under the Act cover all income paid by a person resident to a person non-resident if that income is chargeable to tax. For the purpose of determining whether the income in any particular case is chargeable to tax reference should be made to section 42. From this section it will be seen that whenever money is borrowed abroad and brought into British India either in cash or in kind the interest payable

on the loan is liable to income-tax and that therefore the provision for deducting income-tax applies. Similarly, all income arising directly or indirectly from any business connection or from any asset or source of income in British India is chargeable and tax must be deducted unless the payer has been deemed to be an agent under section 43 and pays tax on behalf of the non-resident accordingly. *This provision for deducting income-tax covers payments to persons in Indian States as well as payments to other non-residents.*

It should be observed that two courses are open to the Income-tax Officer in any case in which an assessee has failed to deduct income-tax from interest or salary paid to a non-resident. He may either refuse to allow the payment in the assessment of the payer's profits under section 10 (2) (*iii*) or 10 (4) (*a*); or, under sub-section (7) of section 18, he may treat the payer as the assessee in default. In any case in which default has taken place the Income-tax Officer should choose that course which is most likely to prevent a loss of revenue. For example, he should not adopt the former course in a year in which the assessee makes a loss and in which the disallowance would be ineffective; but should he fail to take that course if the person responsible for making the payment is a former official of a company and not easily reached.

Sub-sections (3B) and (3C).—These sub-sections follow the old sub-sections (3A) and (3B), but deal with the deduction of super-tax from all payments chargeable under the Act to persons abroad.

Sub-section (3D).—Attention of all Income-tax Officers dealing with assessments on companies is drawn to the fact that as the exemption slab of Rs. 50,000 for companies has been withdrawn, any non-resident company which receives a dividend from a resident company is liable to company super-tax and the paying company must be required to deduct such company super-tax and account for it to the Income-tax Officer in addition to its own income-tax and company super-tax. *This applies to any dividend paid to a non-resident company however small the dividend is.* Steps should be taken to see that the officials of all companies likely to be affected are made aware of these provisions.

Sub-section (5).—The principal amendment to this sub-section is consequential to the amendment of section 16, and in future any sum by which a dividend has been increased under sub-section (2) of section 16 is to be deemed to be a payment of income-tax on behalf of the shareholder and is available therefore either for credit in the assessment or for refund under section 48.

SECTION 20A.

The upper limit of Rs. 1,000 on the amount which may be prescribed under this section has been reduced to Rs. 400, and the Rule has been accordingly amended so that all payments of interest which in the previous financial year exceed in the aggregate Rs. 400 to any one person must be entered on the return form prescribed.

SECTION 21.

The amendments to this section have been dealt with in the Memorandum of Instructions on the payment of salaries. Income-tax Officers should see that the new form prescribed under this section is filled up accurately in view of the important changes in the basis of assessing salaries.

SECTION 22.

Sub-section (1).—A separate circular to Commissioners has been issued explaining the manner in which the public notices and the notices in the press are to be issued and the steps to be taken in connection therewith. Attention is drawn to the fact that the old sub-section (1) which made separate provision for the making of returns by the principal officer of every company has been deleted and that companies are now put into the same position as other assessees.

It should be clearly understood by every officer of the Department that, notwithstanding the proper issue of the public notice under sub-section (1) of section 22, individual notices under sub-section (2) must continue to be sent to every person, including every company, known to be liable to assessment. Income-tax Officers must not relax in any way their efforts at tracing out and serving with a notice all persons whom they believe to be liable. A new form of return has been prescribed and in no circumstances must the old form be used for the assessments for the year 1939-40. The old form of return should, however, be used in respect of any section 34 assessment made for the year 1938-39. Full instructions with regard to the completion of the form are given in the notes appended to the form, and each officer of the Department should himself read through the notes to see that he understands them.

It should be observed that the time given to comply with a notice under sub-section (2) is not less than 30 days, whil t the time given in sub-section (1) to comply with the public notices is not less than 60 days. The time-limit in sub-section (2) is in no way conditioned by the time-limit in sub-section (1), and failure to comply with a notice under sub-section (2) within the required period will attract all the penalties for non-compliance even though the time-limit under sub-section (1) has not expired.

Sub-section (3).—From sub-section (3) the words " and any return so made shall be deemed to be a return made in due time under this section " have been deleted, and if an Income-tax Officer discovers an omission or a wrong statement in a return and is of opinion that such omission or wrong statement was deliberate, he should proceed with the imposition of penalties under section 28, whether or not the assessee has put in a revised return before the assessment is made. Where, however, the assessee has furnished full information and the inaccuracy of the return is due to no more than ignorance or incompetence, no attempt should be made to exact any penalty.

Sub-section (5).—The additional information required by this new sub-section is provided for in the prescribed form of return, and the Income-tax Officer should see that the appropriate sections are completed in all cases.

SECTION 23.

Sub-sections (1) and (2).—The amendments to these sub-sections are designed to remove the impression that an Income-tax Officer has first to believe that a return is incorrect or incomplete before he can take any action under sub-section (2) and call for further information. Assessments should only be made under sub-section (1) where there is every reason to believe, without calling for evidence or requiring the assessee to attend, that the return is correct and complete. This would apply, for example, to a salary case in which no other income is shown in the return and there is no reason to believe that any other income exists.

Sub-section (*4*).—The changes made in this sub-section are mainly consequential upon other changes, or are of a minor character. Attention is, however, drawn to the provisions of section 30 under which all assessments, including assessments under this sub-section, are appealable. An assessee has in future two remedies where he is dissatisfied with an assessment made under section 23 (4). He can either make an application to the Income-tax Officer under section 27, or he can appeal to the Assistant Commissioner under section 30. In the former case the proceedings will be the same as in the past, and if the Income-tax Officer is satisfied that the assessee was prevented by sufficient cause from making the return required, or that he did not receive the notice, or that he did not have reasonable opportunity to comply with the notice, he will cancel the assessment and make a fresh assessment under section 27. If, however, no application is made under section 27 but the assessee appeals to the Assistant Commissioner under section 30, the Assistant Commissioner will normally infer from the absence of any application under section 27 that the assessee was not prevented by sufficient cause from making the return required, or that the other grounds for application under section 27 did not apply, and in this case on hearing the appeal, whether he reduces the assessment or not, he will have a *prima facie* case for imposing a penalty under section 28. The attention of Appellate Assistant Commissioners is specially drawn to the importance of this change which, whilst it gives a double remedy to the assessee where he has been over-assessed under section 23 (4), extends, when read with the provisions of section 28, the scope of the penalties for failure without reasonable cause to comply with notices which have been properly issued. The provisions of section 28 in this connection should be strictly followed, as otherwise assessees will be encouraged to neglect the duty of making a return and complying with notices in the hope that they will be under-assessed by the Income-tax Officer and the knowledge that if they are over-assessed the assessment will be reduced on appeal.

Sub-section (*5*).—As explained in the notes on sections 10 and 16, in the case of a registered firm no tax other than the tax due in respect of a non-resident partner will be payable by the firm. The procedure with regard to registered firms will be as follows :—(*a*) registration ; (*b*) notices under section 22 (2) to the firm and to each partner ; (*c*) determination of the income of the firm under section 23 (1), (3) or (4) ; (*d*) determination of the shares of each partner ; (*e*) the inclusion, in each partner's assessment, of his share of the firm's profits and the collection from him of the tax due in respect of that share as well as of the tax in respect of other income ; (*f*) the assessment and collection from the firm of the tax due in respect of non-resident partners. The examples given in the notes on section 16 (1) (*b*) should be carefully studied by all Income-tax Officers.

Under clause (*b*) of sub-section (5), the Income-tax Officer may, in the case of an unregistered firm, instead of determining the sum payable by the firm, proceed to treat the firm as if it were registered if in his opinion the aggregate amount of tax, including super-tax, payable will be greater if the firm is treated as registered than if it is treated as unregistered. The object of this is to prevent the avoidance of tax (including super-tax) by the simple device of having several unregistered firms where the major part of the income goes to

one person who would be liable to pay a substantial amount of super-tax if the firm were registered. Steps should be taken to investigate all cases to which this section may apply.

SECTION 23A.

The old sub-section (1) has been deleted because other provisions, including those referred to immediately above in the notes on sub-section (5) of section 23, should prove adequate and more effective in dealing with the type of evasion of tax against which this sub-section was originally aimed.

New sub-section (1).—This corresponds to the old sub-section (2) but several material changes have been made and in future it is not necessary for the Income-tax Officer to prove either (*a*) that the company is under the control of not more than five of its members, or (*b*) that its profits and gains are allowed to accumulate beyond its reasonable needs, existing and contingent. In future there are only simple arithmetical criteria. Subject to certain conditions, if less than 60 per cent. of the assessable income has been distributed, the Income-tax Officer may deem the whole profits to have been distributed and the shareholders will then be assessable to income-tax and super-tax accordingly. It should be observed that under the revised sub-section the company continues to be assessed both to income-tax and to company super-tax, whether or not an order is passed under the sub-section deeming the profits to have been distributed. Where the accumulated profits of past years exceed the paid up capital of the company, including debentures and other loan capital belonging to the shareholders or the actual cost of the fixed assets of the company, whichever is the greater, the Income-tax Officer can pass the order if anything short of 100% of the assessable income of the company has been distributed.

The exceptions and conditions in the new section should be carefully examined before any action is taken; and the case should be referred by the Inspecting Assistant Commissioner, through the Commissioner, to the Income-tax Adviser before any order is passed.

SECTION 24.

Proviso to sub-section (1).—It is to be observed that, under this proviso, where the assessee is an unregistered firm that firm and that firm alone can set off the losses incurred by the firm. The old ruling that a partner in an unregistered firm could set off his share of the loss against his own income has now become obsolete owing to the insertion of this proviso, and in future no member of an unregistered firm (unless that unregistered firm has been dealt with as a registered firm) can be allowed to set off his share of the loss in the unregistered firm against his own income. Where the assessee is a registered firm, the loss of the registered firm is to be set off against the registered firm's own income in the first instance and then the balance of the loss allocated between the partners and, as shown in the notes given under section 10, set off against the partners' own income.

Sub-section (2).—For the first time, losses incurred in a business, profession or vocation may, if they cannot be wholly set off against other income for the same year, be carried forward and set off against the profits and gains, if any, of the assessee *from the same business, profession or vocation* for the following year. It must be emphasised that losses cannot be carried forward and set off against income from any other business, profession or vocation or any other

source of income. They can only be carried forward and set off against income from the same business, profession or vocation, and if that business, profession or vocation has been discontinued, the right to carry forward the losses is forfeited.

If, owing to the inadequacy of profits, the loss cannot be wholly exhausted in the year following the year of assessment for which had it been a profit it would have been assessed, it can be carried forward and set off against the profits of the next year and so on for six years, but the full carry forward for a period of six years is not given immediately, and the following table shows the extent to which losses can be carried forward :—

Losses incurred in the previous year for assessment for..... (1)	Assessments against which the loss in Column 1 can be set off. (2)
1939-40	1940-41.
1940-41	1941-42, 1942-43.
1941-42	1942-43, 1943-44, 1944-45.
1942-43	1943-44, 1944-45, 1945-46, 1946-47.
1943-44	1944-45, 1945-46, 1946-47, 1947-48, 1948-49.
1944-45	1945-46, 1946-47, 1947-48, 1948-49, 1949-50, 1950-51.

(Thereafter the full six years' period operates.)

Another way of setting out the position is to show at a glance what losses can be set off against the assessment for each of the years from 1939-40 onwards :—

Assessment against which it is sought to set off the loss sustained in an earlier year. (1)	Loss incurred in the previous year for assessment for the years in this column can be set off against the assessment for the year in Column (1). (2)
1939-40	No losses of earlier years.
1940-41	1939-40.
1941-42	1940-41.
1942-43	1940-41, 1941-42.
1943-44	1941-42, 1942-43.
1944-45	1941-42, 1942-43, 1943-44.
1945-46	1942-43, 1943-44, 1944-45.
1946-47	1942-43, 1943-44, 1944-45, 1945-46.
1947-48	1943-44, 1944-45, 1945-46, 1946-47.
1948-49	1943-44, 1944-45, 1945-46, 1946-47, 1947-48.
1949-50	1944-45, 1945-46, 1946-47, 1947-48, 1948-49.
1950-51	1944-45, 1945-46, 1946-47, 1947-48, 1948-49, 1949-50.

(Thereafter the full six years' period operates.)

The same provisions with regard to losses by unregistered and registered firms operate for the carry forward and set off of losses under sub-section (2) as for the set off of losses under sub-section (1).

The second proviso makes it clear that where a change has occurred in the constitution of a firm, or where there has been a succession to a business, profession or vocation, only the person actually incurring the loss is entitled to set it off against his income, profits or gains. This proviso deals with the changes covered by section 26, and puts the treatment of losses on the same footing as that of profits where these changes occur. Thus, if a registered partnership consisting of A, B and C is reconstituted, A retiring and D coming into the partnership, A by leaving the firm forfeits the right to carry forward his share of the loss* made by A, B and C, but B, C and D do not inherit this loss and cannot claim to set off against their shares of the future profits the share of loss incurred by A. B can carry forward his share of the

*It should be understood, of course, that A's right of set off under sub-section 1 (as distinct from his right of carry forward and set off under sub-section 2) remains unaffected.

loss made by A, B & C, and C can carry forward his share. Similarly, if E is succeeded in a business by F, and E has incurred losses, he forfeits the carry forward of losses by giving up the business to F who, however, cannot claim to set off against his profits the losses incurred by E.

Sub-section (3).—Whereas formerly the determination of a loss was only of importance for the setting off against other income of the same year, it is now important for the setting off against future profits, and therefore it is provided under sub-section (3) that the Income-tax Officer shall pass an order determining the loss and this order is appealable under section 30 in the same way as an order determining an assessment upon which tax is payable.

SECTION 24A.

The amendment clarifies the position with regard to the assessment of persons who are likely to leave India before assessment proceedings would normally be taken in respect of the current year's income.

SECTION 24B.

The amendments made are consequential upon the amendments to sections 22, 23 and 34.

SECTION 25.

The amendment of sub-section (3) and the addition of sub-section (4) are made necessary by the amendments of section 26 which now provide for the taxation of the predecessor in respect of his share of the profits where there has been a succession. In such a case as the predecessor will have to pay tax in respect of the profits made right up to the date on which he transferred the business, it is he and not the successor who should get the relief provided by subsection (3), and the amendment effects this as from the first day of April 1939. The date upon which the business was started by this predecessor is immaterial to the successor, since he (the successor) will only pay tax in respect of the actual profits made by him from the date upon which he took over the business to the date upon which he finally discontinues it or transfers it to somebody else.

SECTION 25A.

Sub-section (1).—The important change made is the elimination of the words " that a separation of the members of the family has taken place and ". In future the Income-tax Officer has to be satisfied that the joint family property has been partitioned among the various members or groups of members in definite portions. He has not to satisfy himself also that the family has completely disrupted in the sense that they are messing or living separately. As this latter condition has been relaxed, it is very necessary for Income-tax Officers to be quite satisfied as to the partition of the property and should refuse to recognise a partition unless it is supported by adequate evidence.

Sub-section (2).—This sub-section has been amended to make it quite clear that, where there has been a succession to a business formerly carried on by a Hindu undivided family whose property has been partitioned, the family and each of its members are to be assessed in respect of the profits to which they were

entitled. The amendments of this sub-section and of section 26 (2) clear up the difficulty which formerly existed owing to the apparent conflict between the two sub-sections.

SECTION 26.

Sub-section (1).—Where there has been a change in the constitution of a firm, the assessment is to be made upon the firm as constituted at the time the assessment is made (because, of course, no other firm exists at that time), but, if the firm is registered, the profits are to be apportioned between the partners *who were partners in the previous year and not between the partners entitled to the profits at the time of making the assessment.* This amendment thus provides for the taxation of each partner in respect of the profits to which he actually was entitled in the previous year. The examples given under section 16 should be carefully studied in connection with the amendment of this sub-section.

Sub-section (2).—Similarly, under this sub-section, where there has been a succession, each person is to be assessed in respect of the share of the profits to which he was entitled in the previous year. Thus, if B succeeds A half-way through the previous year, and the total profits made were Rs. 10,000, then each will be assessed on Rs. 5,000, whereas under the old law B would have been assessed on the full Rs. 10,000*.

Provision is made for the collection of tax from the successor if the predecessor cannot be found, and in no circumstances should tax be written off as irrecoverable where there has been a change and the tax is not recoverable from the predecessor if action is possible against the successor under the proviso to sub-section (2).

SECTION 27.

This section is substantially unchanged, but its importance has been considerably modified by the right of appeal against assessment under section 23 (4), and the notes on that section and on section 28 should be studied in connection with this section.

SECTION 28.

Under the old section 28 a penalty could only be imposed if an assessee concealed particulars of his income or deliberately furnished inaccurate particulars, but the section has been radically altered so that in future *penalties can also be imposed for failure to comply with notices under sub-section (1) or sub-section (2) of section 22, or section 34, or section 22 (4) or section 23 (2).*

Before penalties can be exacted on this wider basis, the Income-tax Officer or the Appellate Assistant Commissioner must be satisfied that the failure to comply with the notice or furnish the return *has been without reasonable cause.* There can be no question, of course, of reasonable cause if particulars have been concealed or inaccurate particulars deliberately furnished.

The maximum penalty which can be imposed is 1½ times the amount of tax payable or which the assessee has attempted to avoid. In certain areas the failure to furnish a return or comply with notice given under the Act has been treated far too leniently, and in all cases in which there has been such failure there is a *prima facie* case for the imposition of a penalty unless reasonable

*This division is based on the assumption that the profits were made evenly throughout the year.

cause for the failure can be shown. As explained in the Board's D. O. R. Dis. No. 34 (22)-I. T./39, dated the 3rd March 1939, the particulars of all cases are to be submitted to the Income-Tax Adviser through the Commissioner before the penalty is imposed.

Special attention is drawn to the three provisos to sub-section (1). Under proviso (*a*) no penalty for failure to furnish a return of total income is to be imposed if the income is less than Rs. 3,500 *unless the assessee has been served with a notice under section 22 (2)*. Thus, whereas a penalty can be imposed upon a person with an income above this limit for failing to comply with the public notice issued under section 22 (1), such a penalty cannot be imposed for failure to comply with the public notice unless an individual notice has been served upon the assessee under section 22 (2) if his income is less than Rs. 3,500. The object of this proviso is to protect relatively small assessees who failed to comply with the public notice in the genuine belief that their income was below Rs. 2,000, even though the Income-tax Officer may estimate their income above this figure.

Under proviso (*b*), if a specific notice has been served upon an assessee under section 22 (2) or under section 34 and it ultimately proves that there is no income liable to tax, a penalty can still be imposed for the failure to comply with the notice but the penalty cannot exceed Rs. 25. The object of this proviso is to discourage obstruction by persons who, though normally liable, know that they are below the exemption limit in a particular year and who, but for this proviso, would not be liable to any penalty for their failure or obstruction.

Proviso (*c*) prevents the imposition of a penalty upon an agent of a non-resident person for failure to furnish a return as an agent, unless he has been served with a notice under section 22 (2) or under section 34.

The position with regard to section 27 has already been explained under the notes on section 23 (4), and the Appellate Assistant Commissioners are again reminded that any action refusing to cancel the assessment under section 27, but allowing an appeal under section 30, is consistent only with a *prima facie* case for the imposition of a penalty under section 28. If there was not a reasonable opportunity to comply with a notice or if the assessee was prevented by sufficient cause from complying, then the section 27 procedure should be followed ; *if, on the other hand, there was no reasonable cause for failure to comply with the notice, then, though the right of appeal under section 30 has not been taken away, the assessee places himself within the terms of section 28.*

Attention is also drawn to the inclusion of super-tax in the computation of penalties.

The amendments of *sub-section* (*2*) are only of a consequential character.

Under *sub-section* (*6*) the Income-tax Officer cannot impose any penalty without the previous approval of the Inspecting Assistant Commissioner.

SECTION 30.

The right of appeal has been extended to a number of orders of the Income-tax Officer which were formerly not appealable, and the right of appeal against an order of an Income-tax Officer refusing to allow a refund under section 48 or section 49 has been transferred to this section, the old section 50-A being deleted.

section and proceeding to assess or reassess all the sources of income belonging to the assessee. In so reassessing after having received such definite information the Income-tax Officer is, in future, at liberty to reopen estimates made either by himself or by his predecessor.

The time-limit for the issue of notices under section 34 in any case in which there has been concealment or the deliberate furnishing of inaccurate particulars is 8 years in place of the present one year, and in any other case 4 years in place of the present one year from the end of the original year of assessment. It is to be observed, however, that the extended time-limit does not operate so as to enable the Income-tax Officer to go back to years prior to the year 1938-39, but the effect of this amendment to this section is that the assessments for the year 1939-40 can be reopened at any time within 4 years from the 31st March 1940, or where there has been concealment or deliberate furnishing of inaccurate particulars any time within 8 years after the 31st March 1940.

There is a further proviso limiting the time-limit to one year from the end of the year of assessment in the case of an agent for a non-resident person, the reason for this limit being that the agent may genuinely believe that he had no liability to assessment and may have no funds of the non-resident principal out of which he could pay any tax chargeable.

Sub-section (*2*) of section 34 imposes, on the other hand, a definite limitation upon the time during which an order of assessment or reassessment can be made. The assessment order itself (as distinct from the issue of the notice) must be completed within 4 years from the end of the year of assessment ~~within 8 years where there has been a concealment~~

The time-limit for rectification of errors apparent from the record is also extended to 4 years with the same condition that no rectification can be made in any order passed on or before 31.3.1938 more than one year after the date of such order.

Legislative Assembly. Notwithstanding the withdrawal of the statutory right, however, both Income-tax Officers and Inspectors will continue to do survey work and to make enquiries, it being understood that in future, as in the past, whilst the law allows them to make such enquiries, it does not enable them to insist upon replies or to insist upon being allowed to enter premises. This survey work is of the greatest importance and in view of the absence of any statutory power of enforcing their wishes in the matter all Income-tax Officers and Inspectors should use the utmost discretion and courtesy in doing this work.

The old sub-section (3) has been deleted, the information formerly required under this sub-section now being required by sub-section (5) of section 22 in the prescribed form of return.

It is to be observed that there is now a right of appeal against an order under section 46 (1) imposing a penalty for non-payment of tax, but that this appeal can only be lodged if the tax has been paid.

A further important proviso makes it clear that in the case of a registered firm, or of an unregistered firm treated as a registered firm, the right of appeal against the amount of total income or loss of the firm or the apportionment between the partners is given to the firm only, and that when the assessment on the firm has become final these matters cannot be raised in appeal against the assessments on the partners individually. A similar provision is made to prevent a shareholder in a Company from appealing against an order under section 23-A, since the right of appeal against the order under section 23-A is specifically given to the Company and not to the shareholders.

SECTIONS 31, 32 AND 33.

The amendments to these sections are mainly either self-evident or of a consequential character.

SECTION 33-A.

The right of appeal against an order under section 23-A to a Board of Referees has been withdrawn, and the normal appellate procedure under section 30 applies to orders under section 23-A. Section 33-A has accordingly been deleted, and as from the 1st of April 1939 all Boards of Referees cease to exist.

SECTION 34.

The amendments to this section are of considerable importance and in particular the interpretation given below of the expression " in consequence of definite information which has come into his possession " should be carefully noted.

The words above referred to have the effect that it is not possible for an Income-tax Officer arbitrarily and on mere suspicion without any evidence whatever to issue a notice under section 34. If, however, the Income-tax Officer comes to the conclusion on the basis of information in his possession that there has been complete escapement, under-assessment, assessment at too low a rate, or excessive relief, he may proceed to issue a notice under section 34 *and having proceeded in this manner there is no need to restrict the assessment to the information upon the basis of which the section 34 proceedings were started.* It is not necessary for him to specify in the notice under what source the income has escaped, and it should be observed that the form of notice (I. T. 90) has been modified accordingly. The information may only have an indirect bearing upon the income assessable, but it must be sufficient to enable the Income-tax Officer to come to the conclusion that there has been such escapement, etc. Thus, if it came to the knowledge of an Income-tax Officer that an assessee had built a house, or invested a large sum of money in circumstances which suggest that his business profits must have been much higher so as to enable him to raise the money for such building or investment, he can come to the conclusion that there has been escapement or under-assessment. Similarly, if he receives information under section 20A or under any other section of the Act pointing to the investment of resources of which he was formerly unaware, he has good ground for issuing a notice under this

The new *sub-section* (*3*) requires the assessee to furnish particulars of rent, interest, commission, royalty, brokerage or annuity where the amount paid to any person exceeds Rs. 400. Provision is made for the furnishing of these particulars on Form I. T. 11-A which is attached to the Return form.

SECTION 40.

The amendments to this section are of a minor character only, the expression "being in .. receipt" being replaced by "being entitled to receive" so as to cover cases in which the trustee, though entitled to receive the income does not in effect receive it.

Under the proviso provision is made for the direct assessment of a beneficiary being a person resident out of British India if that course proves to be more satisfactory.

SECTION 41.

An important change has been made in this section by the inclusion of trustees under duly executed trust deeds, and in future in all cases of assessments on trustees so appointed, including trustees under a Wakf deed, the tax is to be computed in the same way as it would have been computed had the assessment been made directly on the beneficiary. In other words, the assessment is to take into account the rate at which the beneficiary himself is assessable and the rate of tax is not to be computed by reference to the total income of the trust. Thus, if a trustee is in receipt of income amounting to Rs. 3,000 divisible equally between three beneficiaries each of whom has no other income, the tax payable is *nil*, since if each of the beneficiaries was assessed directly he would pay no tax.

Difficulty may be experienced in cases in which a beneficiary has other income, and in such a case the Income-tax Officer, who is assessing the trustee, should, if he does not also assess the beneficiary, communicate with the Income-tax Officer who assesses the beneficiary so as to ensure that the total tax payable in respect of the beneficiary's share from the trust and in respect of his other income is equal to the total amount which would be payable had the whole amount been assessed directly upon the beneficiary. In most of these cases, however, it will usually be found more convenient to assess the beneficiary direct under sub-section 2 of this section.

Where a trust does not define the shares of the beneficiaries, or where owing to the existence of some contingency before the shares can be determined, *the tax is to be levied at the maximum* (*or Company*) *rate* (except in respect of any part of the income which is definitely the income of a particular beneficiary). Income-tax Officers should take care to see that *the full Company rate of income-tax is applied and not merely the rate appropriate to the total income of the trust* as though the trust were an ordinary association of persons.

The second proviso to sub-section (1) covers certain difficulties which arise in the case of a few large trusts only. In these cases it has been difficult to determine whether the share of a particular beneficiary should be regarded as taxed or untaxed when the beneficiary's share does not equal the total income of the trust, and where the total income of the trust has not been subjected to

Indian income-tax. It is now provided that in determining the extent to which the beneficiary has been taxed, his share is deemed to have been derived proportionately from the whole income of the trust and therefore to have been taxed in the same proportion as the income of the trust has been taxed.

Sub-section (2) gives the Income-tax Officer the right to assess the beneficiaries direct, and this course will frequently be more convenient. Care should, however, be taken to see that if the tax is not readily recovered from the beneficiary, proceedings for the assessment and recovery from the trust are not allowed to become invalid by reason of lack of notice within the time-limits laid down in section 34.

SECTION 42.

The following important changes have been made in this section :—

(*a*) Sub-sections (1) and (3) apply where the income accrues or arises to a person not resident in British India, *or to a person who is so resident.*

(*b*) In place of the expression, " all profits or gains accruing or arising ..... through or from ..... or property in British India", the expression, " all income, profits or gains accruing or arising ..... or through or from any property in British India, *or through or from any asset or source of income in British India, or through or from any money lent at interest and brought into British India in cash or in kind* " has been substituted. The importance of this change is that it extends the scope of income-tax to all income which arises in a primary sense in British India even though that income may not be received or brought into British India. The only exception is that provided in Explanation 2 of section 4 (1) for pensions payable without India. Thus money lent in London to a firm trading in India for the purpose of erecting machinery in British India is included in the expression " money lent at interest and brought into British India in cash or in kind". Where the owner of the income, profits or gains is resident in British India, there will normally be no difficulty in assessing him direct in respect of the profit in question. Where the owner is a person, who is a non-resident and the income is paid in British India, then under section 18 (3A) income-tax is deductible at the maximum rate by the payer in British India. Where the payment is made abroad to a person, who is a non-resident, then unless there is an agent appointed under section 43 or tax is paid direct by the non-resident, the payment has to be disallowed in computing the payer's profits under section 10, as explained in the notes on section 10.

(*c*) Specific provision is made for the assessment of the income of a non-resident from such a source either in his own name or in the name of his agent.

(*d*) Having regard to the extended scope of section 42 the position of an agent is more onerous than before and provision is made to enable such an agent to retain from money payable by him to his non-resident principal, a sum equal to the tax which he estimates he will have to pay under this section. If the non-resident principal and the resident agent cannot agree on the estimated amount to be so retained, the resident agent can obtain from the Income-tax Officer, a certificate stating the amount to be retained pending final

settlement of the liability. When an agent applies to any Income-tax Officer for such a certificate the Income-tax Officer need not examine all the facts closely; but, if there is any *prima facie* case of agency he should estimate quite broadly how much tax should be retained and issue a certificate accordingly. The form of certificate to be used in this case will be circularised in due course. Having regard to the third proviso care should be taken not to issue a certificate which does not cover all reasonable contingencies, otherwise it may prove to be impossible to collect the balance of tax if the liability is much in excess of the amount shown on the certificate.

(*e*) The expression " and not being a British subject, or a firm or company constituted within His Majesty's dominions or a branch thereof " has been deleted from sub-section (2) and the words " or not ordinarily resident " inserted. The effect of this is that *all* persons who are either not resident or not ordinarily resident (*i.e.*, all persons who are not assessable under section 10 on the whole profit of their business, profession or vocation) are now within the terms of this sub-section. A further amendment has been made in this sub-section by the deletion of the words " and to the substantial control exercised by the non-resident over the resident". It is not, therefore, necessary for the Income-tax Officer to go into the question of control when applying this sub-section.

(*f*) Sub-section (3) has been completely recast and applies to all businesses whether owned by a resident or by a non-resident. It is important, however, to bear in mind the distinction between profits and gains which are assessable under section 4 because they *arise* in British India, and profits and gains which are assessable on the restricted basis laid down in section 42 (3) because they are *deemed to arise* in British India. The distinction is of no significance if the assessee is ordinarily resident in British India, but it is important if he is resident but not ordinarily resident, or is not resident in British India. Thus if a non-resident's business consists of buying goods in British India and selling them in a foreign country, he will, under section 42 (3), be assessable (either directly or through an agent) in respect of that part of the profits which is attributable to the buying operations only. If, on the other hand, the business consists of buying goods abroad and selling them in British India, the profits and gains *arise* (*i.e.*, they are not merely *deemed to arise*) in British India, and on a strict interpretation of the law the non-resident owner is assessable in respect of the full profits and not merely in respect of the proportion which is attributable to the selling operations in British India. Where, however, the owner of the business is non-resident and the business is controlled outside *India*, the assessment should in practice be confined to the proportion of the profits attributable to the selling profits unless the profits are received in British India by the non-resident owner himself.

A fair method of allocating profits between buying and selling operations is to ascertain what profit would normally be expected in each set of operations if they were done by separate persons and to make the allocation accordingly.

In cases in which, owing to the absence of businesses of a similar character in which the operations are carried on by separate persons, it is not possible to determine in this way what part of the profits are attributable to the operations which are carried out in British India, a rough apportionment of profits

between the buying operations and selling operations can be arrived at by attributing half the profits to each, modifying such apportionment if there is any evidence to warrant modification. In any case of difficulty the matter should be referred to the Inspecting Assistant Commissioner before the assessment is made.

SECTION 43.

The first proviso added to this section is intended to prevent the assessment of a broker in British India, who is carrying on ordinary broking business through non-resident brokers. There is in such cases no method of ascertaining what profit the principal makes and how much tax should be retained. The principal type of such transactions are those carried on through the produce exchanges ; but care should be taken to see that the proviso is not applied in other cases (*e.g.*, cases in which a broker in British India is acting regularly on behalf of some principal, who may be resident abroad including an Indian State in the circumstances in which the broker could without difficulty retain a sum to represent a fair estimate of the tax payable in British India). It should be observed that this proviso does not exempt the foreign principal from taxation in respect of profits made in British India and in some cases in which the broker cannot be appointed an agent under section 43 it may be possible to assess the non-resident principal direct under the provisions of section 42. Nor does this proviso relieve any person in British India from the responsibility of deducting tax under section 18 (3A) in all cases in which hat sub-section is appropriate.

In the Legislative Assembly an undertaking was given that where the question of agency is in dispute then, although assessment proceedings will not be held up and the agent's responsibility for appealing in the ordinary course remains, the collection of the tax in dispute will be suspended until there has been a determination of the question of agency under section 43. If the agent has funds belonging to the non-resident in his possession there is no justification for withholding collection of tax, but in other cases considerable hardship might follow by insisting upon collection of tax which is due from the assessee only as agent, and the direction to suspend collection until the question of agency is settled should be interpreted as extending to the suspension of such collection until after the determination of any appeal under section 30 or any petition to the Commissioner under section 33.

SECTIONS 44 AND 44C.

The amendments to these sections are of a minor character only.

CHAPTER VB.

SECTIONS 44D, 44E AND 44F.

These new and rather technical sections are aimed at preventing certain forms of legal avoidance, which are not likely to be encountered except in certain large cities or in circles dealing with very wealthy assessees and it is not, therefore, proposed to issue detailed instructions at this stage. Any Income-tax Officer, who comes across a case in which he thinks the provisions of one of these sections is operative, should report the matter to his Inspecting Assistant Commissioner, who should send the particulars to the Income-tax Adviser through the Commissioner.

SECTION 45.

Attention is drawn to the new proviso in respect of income arising outside British India where there is difficulty in remitting the profits to British India owing to exchange restrictions. The expression "the laws of which prohibit or restrict the remittance of money to British India" should be interpreted widely so as to include any case in which the inability to remit money arises from some regulation made in the foreign country, even though such regulation, though fully effective, might not be deemed to have the full force of statutory law.

In cases in which this proviso operates if, when the embargo is removed, there is difficulty in paying a large amount of accumulated tax due, reasonable instalments should be allowed and any exchange loss incurred owing to the inability to remit those profits to British India should also be allowed.

SECTIONS 46 AND 47.

The amendments to these sections are of a consequential character only.

SECTION 48.

This section has been completely recast and section 48A deleted from the Act. Under the original section specific provision was made to give a refund in a number of cases in which the tax deducted or suffered at source was deducted or suffered at a rate in excess of the rate appropriate to the total income of the assessee. This method of providing for each possible case of refund separately was found several years ago to be incomplete and necessitated the introduction of section 48A to cover those cases which were not specifically referred to in section 48, but even with the addition of section 48A the method proved cumbersome and unsuitable where a slab system of rates of income-tax is imposed. In consequence the new section provides simply that where the tax paid exceeds the amount chargeable the owner of the income is entitled to a refund of the excess.

As explained in the notes on sections 14 and 16 dividends are no longer exempt from income-tax in the hands of the shareholder, but the full amount of income-tax appropriate to any dividend is under section 18 (5) deemed to have been paid on behalf of the shareholder and all that is necessary in such a case is to determine the tax payable on the total income of the shareholder, deduct any tax thus deemed to have been paid on his behalf and to collect or refund the difference as the case may be.

Thus sub-section (1) of the new section 48 covers all the matters formerly dealt with in the old section 48 and also sub-section (1) of 48A. The new sub-section (2) of section 48 repeats substantially and with necessary modifications, the provisions of sub-section (2) of 48A and the new sub-section (4) covers what was formerly dealt with in sub-section (3) of section 48A, but also makes clear that no refund can be given in respect of income which arose prior to the commencement of the Indian Income-tax Amendment Act, 1939, which could not have been given but for the passing of the Amendment Act.

SECTION 49.

This section has been modified in several important respects, but the effect of the modifications is to bring the strict letter of the section into line with the modified practice under the old law, as set out in the D. O. to the

Commissioners, dated 18th September 1937 and in subsequent D. Os. In order, however, to make the position absolutely clear it is perhaps desirable to set out afresh (*a*) the new practice under the old law and (*b*) the position under the new law.

(*a*) *New practice under the old law.*—Under the new interpretation of the law before amendment by the Amendment Act, 1939, the rate of income-tax applicable to the profits of a company for the purpose of section 48 is taken to be the net rate after deduction of the rate of relief given to the company under section 49, and the shareholder's section 48 relief is restricted accordingly. The shareholder is then deemed to have suffered any double taxation which fell originally on the company and was not wholly relieved in the United Kingdom. Any relief due to the shareholder is given in the terms of section 49, so as to repay to him any Indian tax suffered at a rate in excess of the rate of relief given in the United Kingdom; or in other words, so as to leave him paying in the aggregate at the United Kingdom rate or at the Indian rate whichever is the higher.

In practice, however, it has been found that, owing to the difference between the treatment of Indian Company Super-tax in the United Kingdom and the treatment in India, in very few cases is there any relief due to the shareholder under section 49. Although in British India company super-tax is not deemed to have been paid on behalf of, or in any way to have been suffered by, the shareholders, in the United Kingdom the contrary view is taken, and in computing the dominion income-tax relief due to the shareholder under section 27 of the United Kingdom Finance Act 1920, company super-tax is taken into account and the result is that the dominion income-tax relief given by the United Kingdom to shareholders is given at a rate which precludes any further relief to the shareholder under section 49 of the Indian Income-tax Act in the great majority of cases. There are, however, a few cases in which such further relief is due and these cases occur mainly where the company super-tax is either *nil* or very small owing to the smallness of the company's profits. (The fact that in the United Kingdom dominion income-tax relief to the shareholder is normally given by the restricted deduction of income tax from the dividend and the subsequent modification of the relief by reference to the shareholder's own appropriate rate of tax makes no difference to the result which is precisely the same in the end as in the case in which the United Kingdom relief is given directly to the shareholder).

(*b*) *Position under the Act as amended by the Amendment Act, 1939.*—The amended Act radically alters the procedure and clarifies the position with regard to the right of shareholders to relief under section 49 in respect of dividends received from companies—a right which was doubtful before the passing of the Amendment Act. The final position, however, is the same as that shown in (*a*) above. Relief under section 48 has in future to be allowed at the full difference between the shareholder's average personal rate and the company rate of income-tax, without any deduction from the latter for double income-tax relief; but a set off against this has to be made in respect of any relief given to the company under section 49 which is in excess of the rate of relief to which the shareholder is personally entitled, the latter rate being restricted to half the shareholder's Indian rate of tax. In this connection, the wording of section 49B and 49C should be carefully examined. In all

CHAPTER IXB.

Superannuation Funds.

Provision is now made for the approval of Superannuation Funds on lines similar to those for the recognition of Provident Funds. Any application by the trustees of a Superannuation Fund for approval has to be made to the Income-tax Officer under section 58Q, and on receipt of the application, together with the required documents, the Income-tax Officer should forward the whole papers to the Central Board of Revenue through the Inspecting Assistant Commissioner and the Commissioner. It is not necessary for the Income-tax Officer himself to enter into any correspondence as to whether a particular fund will or will not be approved by the Central Board of Revenue.

Similarly, if it comes to the notice of the Income-tax Officer that alterations in the rules, constitution, objects or conditions of the fund have been made and have not been notified to the Central Board of Revenue by the trustees, he should report the matter to the Central Board of Revenue through the same channels.

Instructions showing the manner in which any particular fund should be dealt with will be issued by the Central Board of Revenue in each individual case when approval has been granted.

Notwithstanding the use of the words " and super-tax " in section 58-S., as contributions to recognised superannuation funds will have been exempted from income-tax only (see sections 15, 58 and 58R), no super-tax should be charged when the contributions are refunded to the employee.

Section 60.

The power of the Central Government to make exemptions under sub-section (1) has been withdrawn by sub-section (3), except to the extent necessary for rescinding an existing exemption, reduction or modification.

The withdrawal of the exemption of leave pay etc., drawn in the United Kingdom or from a Colonial Treasury has already been notified. The withdrawal operates for all such pay drawn on or after 1st April 1939.

The amendments to sub-section (2) are of a minor character only and any claims under that sub-section should continue to be sent to the Central Board of Revenue.

Section 61.

A revised form of authority for use under this section has been printed, and the old form should not in future be used. The right of the assessee to appear not in person but through an agent has been restricted to persons belonging to the classes detailed in the section *and no other person may appear in any proceedings under the new Act (including proceedings in respect of assessments for years earlier than the assessment year 1939-40)*. In all cases a power of attorney or a letter of authority properly stamped must be filed, and this applies also to cases in which the assessee wishes to send his own employee, or where an officer of a Scheduled Bank attends.

A person who, before the first day of April 1938, attended before an Income-tax authority on behalf of any assessee *otherwise than in the capacity of an employee or relative of the assessee* may continue to practise even though he does not have the legal or accountancy qualifications required of other persons appearing before Income-tax authorities. Inspecting Assistant Commissioners should, however, keep a special watch over unqualified practitioners, and should report at once to the Commissioner any case in which it appears to him that the conduct of a practitioner has been unsatisfactory. Any complaints from assessees with regard to Income-tax practitioners should also receive careful attention.

To remove doubts the wording of section 61 now makes it clear that an assessee can himself be required to attend under section 37 personally for examination on oath or affirmation.

SECTION 64.

The two new provisos added to sub-section (3) should be carefully noted. They prevent the assessee from obstructing the assessment proceeding by belated applications for transfer.

The Income-tax Officer must, if the place of assessment is called in question by the assessee, refer the matter for determination before he makes the assessment.

THE SCHEDULE TO THE ACT.

(1) *Life insurance companies.*—The assessment record and the miscellaneous file for each life insurance company are to be submitted (through the Inspecting Assistant Commissioner and the Commissioner) to the Income-tax Adviser before the assessment for the year 1939-40 is completed. The Income-tax Officer should proceed up to the point of making his draft order before sending up the records.

(2) *Other insurance businesses.*—Although rule 29 has been repeated in the rules in the Schedule, a fair and proper reserve for unexpired risks should be allowed in all non-life insurance business assessments. In case of any difficulty in determining what is a fair and proper reserve, the matter should be referred to the Income-tax Adviser through the Inspecting Assistant Commissioner and Commissioner.

(3) *Mutual insurance business.*—Under rule 9 in the Schedule, all the rules are applied to the profits of any business of insurance carried on by a mutual insurance company, and in future these companies should be dealt with on exactly the same lines as any other insurance company.

M818CBR—1,000—25-5-39—GIPS

I.A. 24/96

S.N. 12

D.A.Dis.No.27(10)-I.T./39.

Central Board of Revenue.

Simla, the 17th May 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Secretary,

Merchants' Chamber of United

Provinces, Cawnpore.

Sir,

Indian Income-tax Act, 1922 - Section 10(2)(vii) as amended - Interpretation of.

...

With reference to your letter No.1488-39/L.N.3/I, dated the 24th April 1939, I am directed to say that clause (vii) of section 10(2) of the Indian Income-tax Act, 1922 as amended applies to machinery or plant which has been sold or discarded whether on account of obsolescence or not.

I have the honour to be,
Sir,
Your most obedient servant,

T.S. Pillay,

First Secretary, Central Board of Revenue.

Copy, with a copy of the letter replied to, forwarded to -

(1) All Commissioners of Income-tax including Commissioner of Income-tax (Central), Bombay.

(2)...

THE RESIDENT BANGALORE. 5 JUN 1939 Diary No. 5-731 File No.

R.D. 31/35

I.T. 3/16

(2) All Appellate Assistant Commissioners of Income-tax.

(3) The Income-tax Adviser to the Board.

By order, etc.,

K. B. Deb

for First Secretary, Central Board of Revenue.

SR.
23/5.

Copy of letter No.1488-39/LN.3/I, dated the 24th April 1939 from the Secretary, Merchants' Chamber of United Provinces, Cawnpore to the Secretary, Central Board of Revenue, Simla.

...

Indian Income-tax Act, 1922 as amended by Act VII of 1939 - second proviso to Section 10(2)(vii).

...

I am directed to refer to the provisions of the second proviso to the amended sub-clause (vii) of Section 10(2) of the Indian Income-tax Act as amended. The attention of the Council of the Chamber has been drawn to the fact that the words " in consequence of its having become obsolete" no longer occur in the substantive part of the clause and the opinion of the Chamber has, therefore, been asked whether the provisions of the second proviso to this clause can be regarded to govern only the cases of obsolescence or whether the provisions of this proviso may also be applied to a case where, for instance, sale has been effected of the plant and machinery as a part of the sale of the entire factory as a going concern.

2. For themselves, the Council have no hesitation in regarding that the clause (vii) of Section 10(2) covers only cases where plant etc. has been discarded either by sale or scrap on account of their obsolescence. In this connection, the

Council rely for their view on the following facts: that the new clause (vii) is only a substitute of the old obsolescence clause (vii) that the Income-tax Enquiry Committee in the top of page 41 of their Report definitely made it clear that the amendment of clause (vii) of Section 10(2) was intended to cover cases of obsolescence, that the note attached to Section 10(2)(vii) in the Income-tax Amendment Bill, 1938 as introduced in the Legislative Assembly also made it clear beyond doubt that it is only the sale on account of obsolescence which is intended to be covered by this clause. The Council, in any case, shall be grateful to have the Board's view on the matter before they definitely advise the member as to what, in their opinion, appears to be only correct interpretation of the clause.

3. The favour of a very early reply is requested.

...

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Circular No. 7 of 1939.

C.No.46(7)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 3rd May 1939.

CIRCULAR.

Indian Income-tax Rules, 1922 - New rules 2 to 6B - Registration of firms - Registration to be granted only at the time of assessment.

.....

The attention of the Commissioners of Income-tax is invited to Board's Notification No.32-Income-tax, dated the 29th April 1939, (published in the Gazette of India of the same date) with which were published revised rules relating to the registration of firms. The Board has decided that no certificate under rule 4 or 6A should be granted otherwise than at the time of assessing the total income of the firm under section 23 of the Act. The Income-tax Officers may be instructed accordingly.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
3 JUN. 1939
Diary No. 5670
File No. To

RO 31/39

20 May

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax (including the Commissioner of Income-tax, (Central), Bombay.)

The Income-tax Adviser to the Board.

S.N 74

(13)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 26th June *193* 9.

R.Dis. No. F.31-39(19)St.
Judl.

A copy of the undermentioned paper(s) is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore,

for information, ~~in continuation of~~ ~~with reference to~~ ~~the correspondence ending with (his)~~

~~Memorandum~~
~~letter~~ ~~from~~
~~endorsement~~

~~No.~~ ~~, dated the~~

By order, etc.,

16.6

for Secretary to the Resident in Mysore.
~~Asst. Secy.~~ and Commissioner of Income-tax.

List of papers.

S.N.66 1. Endt. from the Central Board of Revenue, (forwarding copy of letter) C.No.35(3)-I.T./3 dated the 22nd May 1939 with enclosures.

S.N.67 2. Letter from the Commissioner of Income-tax, Bengal, No.2977-8 C.T., dated the 20th May 1939 (with enclosure)

S.N.69 3. Endorsement from the Central Board of Revenue (forwarding copy of letter) C.No.1(2)-I.T./ dated the 13th May 1939, with enclosure.

S.N.70 4. Endorsement from the Central Board of Revenue, D.A.Dis.No. 4(10)-I.T./39 dated the 9th May 1939 with enclosures.

S.N.72. 5. Endorsement from the Central Board of Revenue, D.A.Dis.No. 27(10)-I.T./39 dated the 17th May 1939 with enclosures.

13.6.39

11.6.39

S.N.75

3 Draft
Issued 26/6/39 Hs.

Issue 16/6

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 26th June *193* 9.

R.Dis. No. F.31-39/Judl. Enc (1)

A copy of the undermentioned paper(s) is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore,

~~for information~~, in continuation of / with reference to ~~the correspondence ending with (his)~~

S.N.46 D

~~Memorandum~~ / letter / ~~endorsement~~ from this Residency R.Dis.No.F.31-39/Judl., dated the 31st May 1939 with the request that necessary correction may be made in the copies of the Memorandum forwarded with it.

~~No.~~ , ~~dated~~

By order, etc.,

16.6

for Secretary / ~~Asst. Secy.~~ to the Resident in Mysore.
and Commissioner of Income-tax.

List of papers.

S.N.68 P.U.C.

✓ Letter from the Central Board of Revenue, C.No.35(3)-I.T./39 dated the 22nd May 1939.

13.6.39

14.6.39

S N-76

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3 Drafts Drafts

Issue 16/6

Read 26/6/39 Ps.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 26th June 1939.

R.Dis. No. F.31-39 Judl. Enc(4)

A copy of the undermentioned paper~~(s)~~ is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and necessary action.

~~for information,~~ in continuation of ~~with reference to~~ the ~~correspondence ending with~~ (his)

~~Memorandum~~
~~letter~~ ~~from~~
endorsement

~~No.~~ , ~~dated the~~

By order, etc.,

16-6

for Secretary ~~Asst. Secy.~~ to the Resident in Mysore.
and Commissioner of Income-tax.

List of papers.

S.N.73. P.U.C. Circular from the Central Board of Revenue No.7 of 1939 dated the 3rd May 1939.

✓ (With 3 spare copies.)

13-6-39

ASRa. 14.6.39

S.N 77

F.A

M. N.C.V

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
13 JUN 1939
Diary No. 5-981-
File No.....
RD 31/39
5731/W.C/10/6

CIRCULAR NO. 9 OF 1939.

C.No.41(3)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 25th May 1939.

CIRCULAR.

Indian Income-tax Act, 1922, as recently amended - Sections 14 and 16(2) - Dividends - Assessment of and inclusion in total income.

Prior to the recent amendment of section 14 of the Indian Income-tax Act dividends received by a shareholder in a company where the profits or gains of the company had been assessed to income-tax were exempt from income-tax in the shareholder's hands. In the Hungerford Investment Trust case (1936 I.T.R. 270) the Privy Council held that this exemption applied to the whole of a dividend even when it was partly paid from profits not assessed to income-tax.

2. This exemption has now been deleted from section 14 and in future a dividend is to be treated in the same way as salaries and income from securities from which tax has been deducted at source. But when only part of the company's profits have been taxed, the income-tax to be added in grossing the dividend is to be calculated on the proportion of taxed income to total income of the company /section 16(2) proviso/.

3. These amendments have rendered obsolete the decision in the Hungerford Investment Trust

case.....

case but they have not altered the position in regard to dividends paid from tax-free securities, from agricultural or other exempt income, and from capital. Dividends from these sources remain exempt on the principle that a dividend is merely the shareholder's share in the income of the company and therefore if the income is exempt the share is exempt. (Section 49B gives effect to this principle in the case of taxed income).

4. The following example will make the matter clear:-

Company's profits, Rs. 5,00,000 consisting of -

Rs. 2,00,000	40%	business profits
Rs. 1,00,000	20%	foreign profits not taxable
Rs. 1,00,000	20%	agricultural income
Rs. 50,000	10%	capital profits
Rs. 50,000	10%	income from tax-free securities.

If a shareholder receives a dividend of Rs. 1,000 from these profits, it will be considered to be made up as follows:-

Rs. 400	business profits taxed
Rs. 200	foreign profits not taxed
Rs. 200	agricultural income exempt
Rs. 100	capital profits exempt
Rs. 100	income from tax-free securities.

In his assessment the shareholder will be credited /section 16(2) proviso and section 18(5)/ with the tax on Rs. 400. If being a resident he receives the dividend in British India or brings it into British India, he will be taxed on Rs. 200, the

portion.....

portion representing foreign profits. If he is ordinarily resident in British India but does not receive the dividend in British India or bring it into this country, this Rs.200 will be included in his unremitted foreign income and will be taxable to the extent that the total unremitted foreign income exceeds Rs. 4,500. The portions representing agricultural income - Rs.200 - and capital profit - Rs. 100 - will be exempt and will not be included in total income. The portion representing income from tax-free securities - Rs. 100 - will not be subject to income-tax but will be included in total income [section 16(1)(a)] and will be subject to super-tax.

5. Although, strictly speaking, where profits of more than one year are available for distribution, it is not possible to say that a dividend is paid out of a particular portion of profits, it has to be assumed, in order to make section 16(2) and the above instructions workable, that the dividend is paid out of current profits, i.e., the profits of the company's accounting year in respect of which the dividend is declared. If a company whose accounting year is the calendar year pays an interim dividend for 1939 in October 1939 and a final dividend in April 1940, the interim dividend will be included in the 1940-41 assessment of an assessee whose 'previous year' is the financial year and will be grossed up at the company rate for the year 1939-40, whilst the final dividend will be included in the 1941-42 assessment

and.....

and be grossed up at the company rate for the year 1940-41, so that if the Finance Act of 1940 altered the company rate, the final dividend would be grossed up at a different rate from the interim dividend. But both dividends are to be held to have been paid out of the company's profits of the year 1939 and it is the proportion of taxable to total profits of that year which will form the basis of the calculation of the amount of income-tax to be grossed up under the proviso to section 16(2).

If the assessment of the company's profits of 1939 (assessment of 1940-41) has not been completed when the shareholder's assessment for 1940-41 is being made, or if there is a loss in 1939, the proportions of the year before, i.e. 1938, should be adopted.

6. The instructions in Circular No. 4 of 1937 R.Dis.No.139-I.T./37 dated the 26th May 1937, with regard to cases in which the exempt portion of the dividend is less than 5% are unaffected by these instructions.

31.5.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay).

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

By order, etc.,

31.5.39

First Secretary, Central Board of Revenue.

M.29.5.

S.N.75

No. I.T.Gl.85.
49 of 1939-40.

OFFICE OF THE INCOME-TAX OFFICER,
CIVIL AND MILITARY STATION, BANGALORE.

Dated 12th June 1939.

FROM

J. N. Rajagopalan, Esq., B.A.,
INCOME-TAX OFFICER, CIVIL AND MILITARY STATION,
BANGALORE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
14 JUN 1939
Diary No. 6022
File No. R.31/39

To

The Secretary to the Hon'ble the Resident
in Mysore & Commissioner of Income-tax,
BANGALORE.

SIR,

S.N.61 (D)

The Indian Income-tax (Amendment) Act, 1939 - Notes for guidance of Officers - Letter from the Central Board of Revenue C.No. 30(10)-I.T./39 dated 15th May 1939.

S.N.64 (D)

In reply to your endorsement No.R.Dis.F.31-39/Judl dated 9th June 1939, I have the honour to state that 8 copies of the "Notes" (for the guidance of Officers) are required as per distribution shown below:-

	No. of Copies.
Inspecting Assistant Commissioner	1
Income-tax Officer.	1
Two Accountants	2
Head Clerk	1
Six Clerks	3
	8

I have the honour to be,
Sir,
Your most obedient servant,

J. N. Rajagopalan
Income-tax Officer.

DESPATCHED
12 JUN. 1939 BGR.

S.N.9

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 JUN 1939
Diary No. 6048
File No.

D.Dis.No.27(13)-I.T./39.
CENTRAL BOARD OF REVENUE.
Simla, the 29th May 1939.

RD 31/39

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

Messrs. Parry and Company, Limited,
Box No. 12,
Madras.

Gentlemen,

Allowances in assessing business income - Section 10(2)(iii) - Proviso - Sterling Debenture loans issued by a company before 1st April ~~1939~~ 1938. Interest on - Admissible deduction -.

With reference to your letter No. Accs, dated the 25th March 1939, I am directed to say that the answer to the enquiry made in the last paragraph thereof is in the affirmative.

I have the honour to be,
Gentlemen,
Your most obedient servant,

T.S.Pillay,
First Secretary, Central Board of Revenue.

Copy, with a copy of the letter replied to, forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay), all Appellate Assistant Commissioners of Income-tax and the Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

First Secretary, Central Board of Revenue.

M.1.6.

S.N. 80

F A 2/

702/1362

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 JUN. 1939
Diary No. 6049
File No.

RD 31/39

N. N.S.N

C.No.31(7)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 31st May 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Appellate Assistant
Commissioners of Income-tax.

Sir,

Reports and returns - Appeals disposed of - Pending appeals - Monthly reports.

....

With reference to the penultimate sentence of paragraph 4 of Board's Circular No. 3 of 1939, dated the 3rd April 1939, I am directed to enclose a copy each of Forms A and B prescribed by the Board for the submission of monthly reports showing the progress in the disposal of appeals filed before the Appellate Assistant Commissioners. These forms should be carefully filled in and submitted so as to reach the Board not later than the second week of the following month.

X S.N. 57 (D)

2. The first report in Form A (with necessary modification) should be for the month of May and that in Form B for the month of July 1939.

I have the honour to be,

Sir,

Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy....

Copy with enclosure forwarded to -
All Commissioners of Income-tax,
The Income-tax Adviser to the Board,
for information.

By order, etc.,

First Secretary, Central Board of Revenue.

R.1/6.

FORM A.

Report of appeals dealt with in the month of ----------.

---

1. No. shown as outstanding in the last report. .. ..

2. No. since disposed of ....

Balance .. ..

3. No. filed during the month ... .

4. No. disposed of .. ..

Balance .. ..

5. Total number outstanding ....., of which..... are outstanding for more than three months.

6. Of the ..... appeals disposed of -

(a) In ..... assessment was annulled (section 31(3)(a).

Total amount of tax discharged Rs. .....
Highest amount of tax discharged in any single case .... Rs. .....

(b) In..... assessment reduced (section 31(3)(a).

Total amount of tax discharged Rs. .....
Highest amount of tax discharged in any single case .... Rs. .....

(c) In ..... assessment enhanced. (section 31(3)(a).

(d) In ..... assessment set aside. (section 31(3)(b).

(e) In ..... order cancelled (section 31(3) (c), (d)(e) and (f).

Total amount of penalty discharged Rs. .....
Highest amount of penalty discharged in any single case. .... Rs. .....

Total amount of refund* allowed Rs. .....
Highest amount of refund* allowed in any single case. ... Rs. .....

(f) In.....order varied (section 31(3)(d),(f) and (g).

Total amount of penalty discharged Rs. .....
Total amount of penalty discharged in any single case. .... Rs. .....

Total...

Total amount of refund* allowed Rs. .....
Total amount of refund* allowed in any single case. .... Rs. .....

(g) .....unsuccessful (section 31(3)(a), (c), (d), (e), (f) and (g).

---

* Includes double income-tax relief.

Form B.

List of appeals outstanding for more than three months.

Serial No.	G.I.R. No.	Name and address of the appellant.	Date of receipt of appeal.	Reasons for delay.

3 Copies Draft III 11

S.N.82

DEPARTMENT.

BRANCH.

File No.

Serial No.

Issue 19/6

Enc (8) copies sent separately.

Draft Letter / Memorandum / Telegram

Class for telegrams: INLAND: Immediate / Important / Express / Ordinary | FOREIGN: Immediate / Important / Ordinary / Without priority

No. R.Dis. F.31-39 Judl. Dated 23rd June 1939

From

The Secretary to the Resident and Commissioner of Inc.Tax.

To

The Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

To be issued on | Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading:

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

(Code word for telegrams.)

S.N.78
P.U.C

Encl. to S.N.71
J (D)

vide para 2 of S.N.71 J (D)

The Indian Income-tax (Amendment) Act, 1939- Notes for the guidance of Officers.

- - -

Sir,

I am directed to refer to letter from the Income-tax Officer, No.I.T.Gl.85/49 of 1939-40 dated the 12th June 1939. I enclose 8 copies of the 'Notes for the Guidance of Officers'. It will be noticed that copies of the 'Notes' are for departmental use only and the contents thereof should not be communicated to the public.

I have, etc.,

19/6

for Secretary to the Resident and Commissioner of I.T.

S. 5.
MGIPC—S5—1595(S&P)MFP—(M-944)—6-3-39—60,000 Pads

19/6 17.6.39

17.6.39

3 Copies Despatched III

S.N 8 3

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 23rd June *1939.*

Issue 19/6

R.Dis.No. F.31-39 Encl (1).
Judl.

A copy of the undermentioned paper(~~s~~) is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore,

for information, ~~in continuation of~~ and guidance with reference to ~~the correspondence ending with (his)~~

~~Memorandum~~
~~letter~~
endorsement from this Residency

S.N.58
40

R.Dis. No.F.31-39/Judl, dated the 22nd May 1939.

By order, etc.,

for Secretary ~~Asst.Secy~~ to the Resident in Mysore.
and Commissioner of Income-tax.

List of papers.

S.N.80 P.U.C. * Letter from the Central Board of Revenue, C. No.31(7)-I.T.
89 dated the 31st May 1939.

Issue

copy to be given ~~to~~ Judicial ~~clerk~~ to be kept on the file relating to appointment of Appellate Assistant Commissioners.

24/6

17.6.39 17.6.39

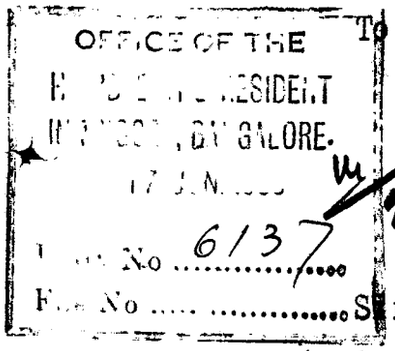
D.A.Dis. No.61-Gl.I/39.

Central Board of Revenue.

Simla, the 9th June 1939.

From

K. G. Jacob, Esquire, M.A.,
Second Secretary, Central Board of Revenue,



To

The Commissioner of Incometax,
Civil and Military Station,
Bangalore.

Sir,

Telegraphic Addresses -
Federal Public Service
Commission - Fedsercom -
Registration of, as :

With reference to your letter R. Dis. No. F.31-39/ Judl., dated the 30th May 1939, I am directed to enclose a copy of the letter asked for therein.

I have the honour to be,
Sir,
Your most obedient servant,

12.6.39.
Second Secretary, Central Board of Revenue.

MI.

Copy of letter No. F. 19/39-Gl., dated the 21st March 1939, from the Secretary, Federal Public Service Commission, to all Provincial Governments and Local Administrations.

I am directed to say that the word 'FEDSERCOM' has been registered as the abbreviated telegraphic address of the Federal Public Service Commission in place of 'PUBSERCOM', with effect from the 1st April, 1939.

SM-85

6 9/11/1962

FA 4/16

M.N.S.U

Circular No. 14 of 1939.

R.Dis.No.31(12)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 12th June 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN [illegible], BANGALORE.
16 JUN. 1939
Diary No. 6140
File No. R 31/39

CIRCULAR.

Burma and Aden - Residence in, before separation - Sections 4-A and 4-B - Residence in British India - To be treated for purposes of -.

The question has been raised whether residence in Burma and Aden before separation constitutes for the purpose of sections 4-A and 4-B of the Indian Income-tax Act as amended, residence in British India. The Government of India hold that the answer is in the affirmative.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
Income-tax Adviser to the Board.

R.12/6.

C. No. 27-Gl.I/39.

Central Board of Revenue.

Simla, the 9th June 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Commissioner of Incometax,
Civil and Military Station,
Bangalore.

Sir,

Lands and Buildings - Government of India Act, 1935 - Section 172 (1) (a) - Issue of certificates under - Disputes with Provincial Governments - Enquiry regarding.

With reference to your letter R. Dis. No. F.31-39 Judl., dated the 16th May 1939, I am directed to say that my letter C. No. 27-Gl.I/39, dated the 28th March 1939, was not intended for you. It is regretted that it was sent to you by mistake.

I have the honour to be,
Sir,
Your most obedient servant,

Conway

12.6.39.
First Secretary, Central Board of Revenue.

MI.

S.N.93

Confidential C.No.30(10)-I.T./39.

Central Board of Revenue.

Simla, the 19th June 1939.

...

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
29 JUN. 1939
Diary No. 6624
File No. 1231/39.

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax
(including Commissioner of
Income-tax (Central), Bombay).

Sir,

Indian Income-tax (Amendment) Act, 1939 - Notes for the guidance of Officers - Correction slip to.

...

S.N.71 & (D)

In continuation of my letter C.No.30 (10)-I.T./39, dated the 26th May 1939, I am directed to forward * copies of correction slip No.1, dated 9th June 1939, to the "Notes for the Guidance of Officers".

I have the honour to be,
Sir,
Your most obedient servant.

21-6-39.

First Secretary, Central Board of Revenue.

* Madras	110	Mount Abu	2
Bombay	200	C.I.T. (Central), Bombay.	16
Bengal	160	C.I.T. Andaman	2
C.& U.P.	125		
Punjab	115		835
B.& O.	50		
Assam	23		
Ajmer	10		
Coorg	5		
Civil & Military Station, Bangalore.	17		

SR. 20/6.

S.N. 9/2

1 02 2812

F A 12

N. NSU

OFFICE OF THE
[illegible]
Diary No. 6628
File No.
RD 31/39

CIRCULAR No. 16 OF 1939.

D.Dis.No.51(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Life Insurance business - Interest from tax-free securities - Deduction of, from annual average surplus - Instructions regarding -.

In the case of life insurance companies taxed on the actuarial surplus basis Income-tax Officers have been holding in some provinces that part of the interest from tax-free securities is paid out in expenses and that only a part of it finds its way into the taxable surplus. The Calcutta High Court in the case of North-British Mercantile Company Limited and the Bombay High Court in the case of the Manufacturers' Life Insurance Company Limited have held that the entire income derived from tax free securities should be excluded from the actuarial surplus of these companies. The Board has decided to accept the decisions in these cases but where an insurance company's actuary has certified that only a proportion of the tax free interest has entered into the surplus the assessment should be made accordingly.

17.6.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, including the Commissioner of Income-tax, Central, Bombay.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

By order, etc.,

17.6.39.

First Secretary, Central Board of Revenue.

M.16.6.

S.N 96

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 6th July 1939.

Issue
6/7
Issued
6/7/39

R.Dis.No. F.32-39 Judl. Encl.1

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

d/c
6.7.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

S.N.94
P.U.C.

Circular from the Central Board of Revenue, No.16 of 1939 dated the 15th June 1939.

4.7.39

NS. 4.7.39

S.N.97 6

FA 1/ 9 II 3016/

Nr. N.SU

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
30 JUN 1939
Diary No. 6810
File No.

RD 31/39 6721/W/1/7

CIRCULAR No. 17 OF 1939.

D.Dis.No.51(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Non-residents - Interest paid to, in 1938-39 by a resident assessee - Indian Income-tax Act, 1922 - Section 10(2)(iii) proviso - Whether allowable deduction under.

S.N. 33 of (D)

In its Circular No. 4 of 1939 dated the 11th April 1939 the Board has already issued instructions that the provisions of the Amending Act apply to all assessments for 1939-40 (on the income of 1938-39) and subsequent years. The question has been raised whether, where a resident has not deducted income-tax in the year ending 31st March 1939 from interest paid to a non-resident during that year as required by new section 18(3A), such interest should be disallowed in his assessment for 1939-40 under the proviso to section 10(2)(iii). In view of the facts that these new provisions imposing liability upon the resident for the deduction of tax at source from such interest came into force only on 1st April 1939 and that until the Legislature had actually amended the Act no non-resident would have agreed to the deduction of such tax, the Board has decided that interest paid without British India before 1st April 1939 from which tax was not deducted should not be disallowed in the payer's assessment by reason of

the.....

the non-deduction of tax.

17 6 37.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax including the Commissioner of Income-tax, (Central), Bombay.
All Appellate Assistant Commissioners.
All Chambers of Commerce.
The Income-tax Adviser to the Board.

By order, etc.,

17.6.37

First Secretary, Central Board of Revenue.

M.16.6.

S.N.99

No.F.31(18)-E/39.

A copy of the undermentioned papers is forwarded to the

Hon'ble the Resident at Hyderabad,
" " in Mysore,
" " for Central India,
" " Rajputana,
" " the States of Western India,
" " Punjab States,
Resident for Baroda and the Gujarat States,
" in Kashmir,
" at Gwalior and for the States of Rampur and Benares,
Resident for the Madras States,
" Kolhapur and the Deccan States,
" the Eastern States,
Military Adviser-in-Chief, Indian States Forces,

for information.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
4 JUL 1939
Diary No. 6818
File No.

By order, etc.,

J. Hamilton Hawes
for Secretary to His Excellency
the Crown Representative.

Political Department.
Simla,

The 24th June 1939.

Letter from the Government of India in the Finance Department (Central Revenues) No.C.No.35(3)-I.T/39, dated the 3rd April 1939, with enclosure.

Letter from the Government of India in the Finance Department (Central Revenues) No.C.No.35(3)-I.T./39, dated the 22nd May 1939.

(With /2 S.Cs.)

YM.

MEMORANDUM OF INSTRUCTIONS FOR THE DEDUCTION OF INCOME-TAX AND SUPER-TAX EVERY MONTH FROM SALARIES, ETC.

1. **Important changes in the Income-tax law.**—The attention of all persons responsible for paying any income chargeable under the head " salaries " is invited to the changes introduced by the Indian Income-tax (Amendment) Act, 1939, to sections 4, 7, 10 and 18 of the Indian Income-tax Act, 1922, and to the withdrawal of the exemption from tax on leave salaries and leave allowances paid in the United Kingdom or in any Colony.

2. **Basis of charge.**—Previously the basis of assessment in respect of any amount chargeable under " salaries " was the actual amount paid, *but this has now been changed and the present basis is the salary paid to a person or due to him, whether paid or not.* An advance by way of loan or otherwise of income chargeable under the head " salaries " is deemed to be salary *due* on the date when the advance is received.

3. **Super-tax also to be deducted by employer.**—The responsibility for deducting tax at the time of payment of salary has been extended to cover super-tax as well as income-tax.

4. **Rates of tax for persons resident in British India.**—In the case of an employee, who is resident in British India, income-tax and super-tax must be deducted at a rate representing the average of the rates applicable to his estimated total income under the head " salaries ". *Special attention is drawn to the fact that the system of rates for income-tax has been changed and now follows that which has always been in force for super-tax.* The rates of income-tax for the year commencing on 1st April 1939 (which are applicable to all deductions to be made on or after that date) are (except for companies and for cases to which the maximum rate of tax applies)—

Rs.	Rate.
First 1,500 of total income	Nil.
Next 3,500 of total income	9 pies in the rupee.
Next 5,000 of total income	1 anna 3 pies in the rupee.
Next 5,000 of total income	2 annas in the rupee.
Balance of total income	2 annas 6 pies in the rupee.

No tax is payable on incomes not exceeding Rs. 2,000 ; and tax payable on all incomes of Rs. 2,000 or more is to be restricted to half of the excess of the income over Rs. 2,000.

The rates of super-tax are (except for companies)—

Rs.	Rate.
First 25,000 of total income	Nil.
Next 10,000 of total income	1 anna in the rupee.
Next 20,000 of total income	2 annas in the rupee.
Next 70,000 of total income	3 annas in the rupee.
Next 75,000 of total income	4 annas in the rupee.
Next 1,50,000 of total income	5 annas in the rupee.
Next 1,50,000 of total income	6 annas in the rupee.
Balance of total income	7 annas in the rupee.

N. B.—For examples showing the manner in which the tax deductible is computed see paragraph 14.

5. **Non-resident employees.**—In the case of an employee, who is not resident in British India, income-tax should be deducted at the time of payment at the maximum rate and super-tax at the rate or rates applicable to his estimated income under " salaries ".

6. **Salaries (and leave salary) paid abroad but earned in British India.**—The salary (including leave pay but excluding pension payable outside India) of an employee whether resident or non-resident, is deemed to accrue

or arise in British India, wherever paid, if it is earned in British India ; also where " salary " earned in British India is payable outside British India no allowance in respect of that payment will be made in computing the income of the employer, unless tax has been paid thereon or deducted therefrom under section 18.

7. **Withdrawal of exemption of leave salary paid abroad.**—*The notifications under sub-section (1) of section 60 of the Indian Income-tax Act, exempting from tax leave salaries and leave allowances paid in the United Kingdom or in any Colony to Judges of the High Court, Chief Courts, etc., officers of Government and of local authorities to employees of companies and of private employers*, have now been rescinded. Instructions in regard to the consequential arrangements to be made for deducting tax on such leave salaries and leave allowances in the case of Government servants are being issued. Other employers are required to deduct tax in accordance with paragraphs 4, 5 and 6 above.

8. **Failure to deduct tax or to pay over the tax deducted.**—Any person responsible for paying " salaries " who does not deduct tax or after deducting fails to pay the tax as required will without prejudice to any other consequences which he may incur, be deemed to be in default personally in respect of the tax.

9. **Items included under " salaries ".**—The following payments should be included under the head " salaries " for the purpose of deducting tax at source :—

(*i*) House rent allowance ;

(*Note.*—The value of rent-free quarters is also taxable under section 7. Though the employer may not be legally bound to deduct tax from it, it will usually be more convenient to include this amount in the amount upon which the tax to be deducted from salary is computed and arrangements may be made accordingly.)

(*ii*) Any bonus, gratuity, fees, commission, perquisites or other allowance or profit in lieu of or in addition to salary ;

(*iii*) Income-tax paid by the employer on behalf of the employees in respect of the salary ;

(*iv*) Payments due to or received by an employee in connection with the termination of his employment consisting of employer's contribution and interest, unless the payment is made solely as compensation for the loss of employment and not by way of remuneration for past services. This does not, however, apply to—

(*a*) any payment from a provident fund to which the Provident Funds Act, 1925, applies ;

(*b*) any payment from a recognised provident fund under Chapter IXA, if such payment is exempted from payment of income-tax under that chapter ;

(*c*) any payment from an approved superannuation fund under Chapter IXB made on the death of a beneficiary or in lieu of, or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established.

10. **Life insurance premiums, provident fund and other contributions.**—Rebate of income-tax (but not super-tax) calculated at a rate representing the average of the rates of income-tax applicable to the total income of the employee is admissible in respect of the following deductions, contributions and premiums, subject to the condition that the aggregate of the total sums exempted shall not exceed in the case of an individual 1/6th of the total income or Rs. 6,000 (Rs. 12,000 in the case of a Hindu Undivided Family), whichever is less :—

(*a*) sums deducted from a Government servant's salary in accordance with the conditions of his service for the purpose of securing a deferred annuity to him or making provision for his wife or children ;

(*b*) contributions to a recognised provident fund subject to the provisions of Chapter IXA ;

(*c*) contributions to a recognised superannuation fund subject to the provisions of Chapter IXB ;

(*d*) sums paid by the employee to effect an insurance on his life or on that of his wife or in respect of a contract for a deferred annuity on his life or on that of his wife. Before any rebate is given in respect of any of these sums, the employer should satisfy himself that it is properly due and, if in doubt, should communicate with the Income-tax Officer. (See note on the examples below.)

11. **Employees' expenses.**—Tax is not payable in respect of any sum which the employee, by the conditions of his employment, is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duty. The cost of travelling from a person's residence to his place of employment is not admissible. Except where the Income-tax Officer has agreed the amount to be allowed, income-tax and super-tax should be deducted on the gross income before deducting such expenses paid by the employee, who may claim the allowance either by adjustment of a later deduction or by refund at the end of the year when he is making his return of income.

12. **Fractions.**—In calculating the amount of tax payable the amount due on a fraction of a rupee of income should be neglected and in determining the amount of tax payable, fractions of an anna less than six pies should be disregarded and fractions of an anna equal to or exceeding six pies should be regarded as one anna.

13. **Excess or deficient deductions.**—Any excess or deficiency arising out of any previous deduction of tax from the salary of a particular person can be adjusted at the time of any subsequent deduction of tax with reference to the salary paid to the same person. Such adjustments should not, however, be made from payments on or after 1st April in any year in respect of an excessive or deficient deduction prior to that date.

14. **Ready Reckoner and calculation of tax.**—A ready reckoner for the purpose of calculating the average rate chargeable on all incomes between Rs. 2,000 and Rs. 25,000 is available for sale at all authorised Government book-sellers. Examples to show how the tax is to be deducted, and claims for insurance premiums, etc., should be calculated, are given below :—

Example 1.—Income Rs. 2,400 per annum. Life insurance premium Rs. 150 per annum.

Income-tax payable per annum—

Rs.		Rs. a. p.
1,500 at nil		Nil
900 at 9 pies		42 3 0
2,400		42 3 0

Average rate of tax = $\frac{42}{2,400}$ = 3·37 pies.

Life insurance relief Rs. 150 at 3·37 pies	2 10 0
Net yearly tax	39 9 0
Tax to be deducted from the monthly income of Rs. 200 is therefore	3 5 0

Example 2:—Monthly income—Rs. 3,500, Rs. 42,000 per annum.

Provident fund contribution	Rs. 5,000	Rs. 9,000. Restricted to 1/6th of salary and to Rs. 6,000 in the aggregate. (If the assessee were a Hindu Undivided Family the limit would be Rs. 12,000.)
Life insurance premium	Rs. 4,000	

Income-tax payable—

	Rs. a. p.
First Rs. 1,500 at nil	Nil
Next Rs. 3,500 at 9 pies	164 1 0
Next Rs. 5,000 at 1 anna 3 pies	390 10 0
Next Rs. 5,000 at 2 annas	625 0 0
Next Rs. 27,000 at 2 annas 6 pies	4,218 12 0
Total Rs. 42,000	5,398 7 0

Average rate of income-tax $= \frac{5,398}{42,000} = 24 \cdot 68$ pies.

Provident fund and life insurance relief Rs. 6,000 at 24·68 pies	771 4 0
Net annual income-tax	4,627 3 0
Monthly deduction of income-tax $= \frac{4,627 \cdot 3}{12}$	385 10 0

Super-tax payable—

	Rs. a. p.
First Rs. 25,000	Nil
Next Rs. 10,000 at 1 anna	625 0 0
Next Rs. 7,000 at 2 annas	875 0 0
Total Rs. 42,000	1,500 0 0

(No deduction of super-tax is to be given in respect of Provident Fund contributions or life insurance premiums.)

Monthly super-tax payable $= \frac{1,500}{12}$ . . . . Rs. 125 0 0

	Rs. a.	Rs. a.
Monthly salary		3,500 0
Deduct—Income tax	385 10	
Super-tax	125 0	
		510 10
Net payment each month		2,989 6

Note.—In the case of life insurance policies which have been in existence during the whole of the preceding year, the person paying the salary should not insist on production of the premium receipts unless he has reason to believe that the policy has expired or been surrendered. A proportionate allowance should be given each month based on the total premiums expected to be paid within the year. Where a new policy has been taken out the first premium receipt should be called for and the allowance given in the next deduction of income-tax.

Example 3.—(*a*) Suppose a person's salary is Rs. 400 per mensem; his total salary during the accounting year 1938-39 will be Rs. 4,800. Suppose he drew an advance of pay in February 1939 of Rs. 400 and that he paid Life Insurance premium, etc., of Rs. 600. Tax at source on Rs. 4,800 at 6+6/12 pies per rupee or Rs. 150+12/8=Rs. 162-8-0.

In 1939-40 assessment.

His position would be as under :—

	Rs.
Salary	4,800
Advance	400
Total	5,200
Less Life Insurance premium	600
Balance	4,600

	Rs. a.
Tax at 9 + 9/12 pies (Rs. 215/10 + Rs. 18)	233 10
Less tax already paid	162 8
Balance recoverable by direct assessment	71 2

	Rs.
(*b*) During the accounting year 1939-40 his salary would be taken at	4,800
Less advance recoverable	400
Balance	4,400

The tax recoverable from him at source under section 18 (2) would be as under :—

	Rs. a.
First Rs. 1,500 at nil.	Nil
Next Rs. 2,900 at 9 pies	135 15
Rs. 4,400	135 15

Average rate of tax $\frac{135/15}{4,400} = 5 \cdot 93$ pies in the rupee.

	Rs. a.
Life Insurance relief Rs. 600 at 5·93 pies	18 9
Therefore the year's tax is	117 6
Average monthly tax = $\frac{117/6}{12}$	9 13

3IPD – M 153 CBR—27-5-39—1,500.

Copy of a letter No.C.No.35(3)-I.T./39, dated Simla, the 22nd May 1939, from the Deputy Secretary to the Government of India, Finance Department (Central Revenues), to All Provincial Governments and Administrations.

Income-tax - Deduction of, from salary etc.- Memorandum of instructions for.

In continuation of my letter C.No.35(3)-I.T./39, dated the 3rd April 1939, on the above subject, I am directed to say that in the Note appended to Example 2 in paragraph 14 of the Memorandum forwarded therewith for the word 'payable' the words 'expected to be paid' should be substituted. I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

Copy of a letter No.[illegible] dated
Simla, the 22nd May [illegible], from the Deputy Secretary to
the Government of India, [illegible] Department (Central
Revenues), to All Provincial Governments and
Administrations.

Imposition - Levy of, from
ad valorem - Assessment of
for.

In continuation of my letter No.[illegible], dated
the 3rd August 1939, on the above subject, I am
directed to say that the Note appended to Rule 2 in
paragraph 14 of the Memorandum forwarded therewith for
the word 'payable' the words 'expected to be paid' should
be substituted. I am to request that the necessary correction
may be made in the copies of the Memorandum forwarded to
you.

Copy of letter No. C-4/52, dated the 16th June 1939, from the Commissioner of Income-tax, Bihar and Orissa, to the Secretary, Central Board of Revenue, Simla.

Reports and Returns - Appeal disposed of - Pending appeals - Monthly reports.
Your letter C.No. 31(7)-I.T./39, dated the 31st May 1939.

In view of your letter quoted above, I have the honour to enquire if the Appellate Assistant Commissioners should continue to submit their monthly statements to me showing the disposal of appeals etc. or whether they would submit them only to the Board in the form now prescribed for the same.

U3

Copy of letter No. C-4/53, dated the 16th June, 1939, from the Commissioner of Income-tax, Bihar and Orissa, [illegible], to the Secretary, Board of Revenue, Patna.

[illegible] of -
[illegible] appeals - Monthly reports.
[illegible] letter C.No. 31(7)-I.T./39, dated
[illegible] 31st May 1939.

In view of your letter quoted above, I have the honour to enquire if the Appellate Assistant Commissioners should continue to submit the monthly statements to me showing the disposal of appeals etc., or whether they would submit them only to the Board. In the latter case [illegible].

FA 1/ 78 817 S.N. 101

N.A.S.O

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
8 JUL. 1939
Diary No. 7030
File No.

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 29th June 1939.

From

T.S. Pillay, Esquire, M.A., B.L., RD 31/39
First Secretary, Central Board of Revenue,

To

1. The Financial Adviser,
   Military Finance.
2. The Financial Commissioner,
   Railways.
3. The Crown Finance Officer.
4. The Finance Officer,
   Communications.
5. All Accountants-General
   (including the Military Accountant
   General, and the Accountant General,
   Posts and Telegraphs)
6. The Comptrollers, Assam, North-West
   Frontier Province, Sind and Orissa.
7. The Audit Officer, Indian Stores Department.
8. The Deputy Accountants General,
   Posts and Telegraphs, Delhi, Calcutta,
   Madras and Nagpur.
9. The Accounting Officer,
   Telegraph Check Office, Calcutta.
10. The Director of Audit,
    Defence Services.
11. The Director of Railway Audit.
12. The Controller of Railway Accounts.

Sir .....

Sir,

Income-tax - Deduction of, from salary etc. - Memorandum of Instructions for.

In continuation of my letter C.No.35(3)-I.T./39, dated the 22nd May 1939, I am directed to enclose a copy each of the papers noted in the margin for information and necessary action.

1. Extract of Auditor General's U.O.I. No.146-Admn.I/19-39, dated the 17th March 1939, and U.O.I. No.T.334-Admn.I/19-39 dated 7th June 1939 (with enclosure).
2. Board's reply to the Auditor General u.o.C.No.35(3)-I.T./39 dated 29th June 1939.

I have the honour to be,

Sir,

Your most obedient servant,

30.6.39.

First Secretary, Central Board of Revenue.

Copy with enclosures forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay) and the Income-tax Adviser to the Board.

By order, etc.,

30.6.39.

First Secretary, Central Board of Revenue.

J.P.29/6.

Extract from Auditor General's U.O.I. No. 146-Admn.I/19-39, dated the 17th March 1939.

The Auditor General makes the following comments on the draft Memorandum of Instructions-

Paragraph 5. It is not clear exactly when this paragraph will be applicable. It is presumed that it will not apply to Government servants on leave but will apply to Agents of Government and Consuls abroad. If this is correct, the paragraph might be amplified to make the position clear.

Paragraph 10. Apparently the ruling in the penultimate sub-paragraph of paragraph 73(XI) in Part III (page 234) of the Income-tax Manual will not continue to apply as, according to Example 2 in paragraph 14 of the Memorandum of Instructions, the person responsible for deducting income-tax at source will have to carry out a check against the limits prescribed for allowing rebate. If this is to be the position, this paragraph might be amplified to make it clear.

Paragraph 11. It is possible for Government to specify particular expenses which are exempt from tax, and it is desirable that they should be specified to save friction.

Extract from Auditor General's U.O.I. No.T.334-Admn.I/19-39, dated the 7th June 1939.

I enclose for consideration and orders a copy of a letter received from the Accountant General, Punjab, No.T.M.21-59/173, dated the 13th May 1939, in which he has discussed certain matters arising from the procedure prescribed in the Memorandum of Instructions for the deduction of income-tax and super-tax commencing from the 1st April 1939. Orders are necessary on all the three points raised by the Accountant General.

2. In connection with paragraph 3 of the letter, a reference is invited also to sub-paragraph (1) and (2) of the note of the Accountant General, Central Revenues on paragraphs 2, 13 and 14 of the Memorandum of Instructions, a copy of which was forwarded to the Board with the Auditor General's U.O.I. No.195-Admn.I/19-39, dated the 7th April 1939; a reference on similar lines has also been received from the Accountant General, Bombay. The Auditor General would like particularly to know whether from the point of view of the Income-tax Department there would be any objection of principle to readjustments of deductions at source in the course of the year being made at specified intervals, say, half yearly.

Sd/- A.C. Badenoch.

7 - 6 - '39.

Copy of a letter No.T.M.21-59/173, dated the 13th May 1939, from the Accountant-General, Punjab, Lahore, to the Auditor General of India, New Delhi.

Instructions for the deduction of income-tax and super-tax commencing from 1st April 1939.

I have the honour to invite a reference to the letter from the Government of India, Finance Department to all Provincial Governments and Administrations No.C.No.35(3)-I.T./39, dated the 3rd April 1939, a copy of which has been sent to you direct forwarding a memorandum on the subject cited above and to solicit your orders on the following points:-

2. (a)- Instructions No.10(d) and the note below example 2 under para 14:-

It is not clear whether abatement has to be allowed in respect of premiums paid prior to 1st April 1939 as required by instruction 73(xi) in part III of the Income Tax Manual, if the premium receipt is presented within six months. The note below the example referred to above seems to restrict the abatement to the total premium payable within the year. The abatement on account of premium paid during the last six months has, however, been allowed provisionally.

(b) Instruction No.11:-

Prior to 1st April 1939, income tax was not deducted from Fixed Travelling Allowance, Motor Car Allowance Conveyance allowance and Sumptuary allowance, in accordance with Note 2 below rule 4(3) on page 115 of the Civil Account Code, Volume I, Eighth Edition (Reprint). The concluding sentence of this instruction requires that income-tax and

super-tax.....

super-tax should be deducted in the first instance from such allowances except where the Income-Tax Officer has agreed to the amount to be allowed. I may kindly be informed whether the intention is that unless the Income-Tax Officer certifies that income-tax and super-tax have not to be deducted from these allowances payable to an individual, the deduction should be made by this office in all cases in which it is responsible for the correct deduction of income tax under Note to Article 131(K) of the Audit Code, Volume I. Incidentally it is presumed that the onus of obtaining such certificates rests on the assessees.

3. I would also enquire whether the average rate of income-tax worked out at the beginning of the year should be revised and adjustments of income-tax made if a person receives an honorarium or enhanced pay for some period during the year on account of officiating promotion or reduced pay due to reversion or leave on half average pay etc. Such revisions, if undertaken, would no doubt result in increased work but it is presumed that it is not the intention to leave the obligation of re-adjustment to the Income-Tax Officer's at the end of the year. If my presumption be correct, I shall address you on the subject of the additional help required by the Gazetted Audit Department.

As.....

As an alternative it is for consideration whether revisions of the average rate of income-tax instead of being effected on each and every occasion of a change in emoluments may not be carried out at fixed intervals, say half yearly or quarterly. Any instructions that may be issued in this connection, will, it is presumed, be applicable to all other disbursing officers.

------O--------

CENTRAL BOARD OF REVENUE.

Income-tax - Deduction of, from salary etc. - Memorandum of Instructions for.

Ref. Auditor General's U.O.I. No.146-Admn.I/19-39, dated 17.3.39 and No. T.276-Admn.I/19-39, dated the 31.5.39. The points raised by the Auditor General regarding paragraphs 5, 10 and 11 of the Memorandum of Instructions are dealt with below :-

Paragraph 5 - Non-resident employees. The presumption that this paragraph will not apply to Government servants on leave is correct. The salaries of Agents of Government and Consuls residing and working outside India are not liable to tax unless they are received in British India. Any portion of their salaries drawn in British India will however be liable to Indian income-tax and tax will be deductible thereon at the maximum rate in accordance with paragraph 5 of the Memorandum.

The case of Political Officers and their staff residing within Indian States will be governed by section 7(2) of the Act and their salaries will be liable to tax. If the officers live permanently within the State limits and are non-residents, the provisions of section 18(2B) would apply to them, under which the Treasury officers will have to deduct tax at the time of payment at the maximum rate (i.e. at 30 pies in the rupee for 1939-40). In such cases the appropriate course is to invoke the proviso

to ...

to section 18(3) and move the Income-tax Officer concerned to authorise the Treasury Officer to deduct tax at such lower rate as is appropriate to each employee; ordinarily the employees will either be British subjects or subjects of an Indian State, and as such tax will be payable by them in accordance with the provisions of section 17(1).

Paragraph 10 - Life insurance premiums. The position as stated by the Auditor General is correct.

Paragraph 11 - Employees' expenses. The instructions in this paragraph are not ordinarily applicable to Government servants, vide notes below on paragraph 2(b) of the letter from the Accountant General, Punjab.

Ref. Auditor General's U.O.I. No. T.334-Admn.I/19-39, dated 7th June 1939.

Paragraph 2(a) of the letter from the Accountant General, Punjab. Attention in this connection is invited to the last sub-paragraph of C.B.R. U.O. note to the Auditor General C.No. 35(3)-I.T./39, dated 22.5.39. The instruction in paragraph 73 of the Manual that abatement may be allowed in respect of premiums paid within six calendar months ending with the month for which the salary is drawn has been withdrawn and the Income-tax Officers have been instructed that any relief in respect of such premiums which cannot be given by abatement from deductions from salary drawn for the year in which the premiums are paid is to be given by refund, or abatement in the assessment made for the year. No abatement should therefore be allowed in future by disbursing officers in such cases.

Ibid ...

Ibid paragraph 2(b). The exemptions in respect of travelling allowance, motor-car allowance, conveyance allowance etc. previously conferred by section 4(3)(vi) still continues, and paragraph 11 of the Memorandum of Instructions was not meant to refer to these payments. This paragraph applies to cases where a person is given a salary, out of which he has to meet certain necessary expenses (e.g. a life insurance agent who is paid a consolidated salary out of which he has to meet his travelling expenses). There will be usually no such claim in the case of Government servants.

Ibid paragraph 3. There is no objection from the point of view of the Income-tax Department to Account Officers making adjustments in respect of deductions at source at periodical intervals. In fact, the proviso to section 18(2) actually gives them the power to do so. The only point to be borne in mind is that such adjustments should not come into the account of two years; that is, adjustments should not be made from payments on or after the 1st April of any year in respect of any excessive or deficient deduction made prior to that date. Some suitable dates may be fixed by the Auditor General for Account Officers to make these adjustments.

A copy of this note is being sent to all Account Officers.

30.6.39,

First Secretary, Central Board of Revenue.

The Auditor General
C.B.R. U.O.C.No. 35(3)-I.T./39, dated 29.6.39.

1. The Secretary,
The Ahmedabad
Millowners'
Association,
Post Box No.7,
Ahmedabad.

2. Hony. Secretary,
Indian Chamber
of Commerce,
7A, Nisbet Road,
Lahore.

3. Hony. Secretary,
The Bihar Chamber
of Commerce,
Patna.

4. Hony. Secretary,
the Federation of
Baroda State Mills
& Industries,
Baroda.

5. The Assistant
Secretary,
Indian Colliery
Owners Assn.,
Jharia,
(Dist. Manbhum).

6. Hony. Secretary,
The Buyers &
Shippers Chamber,
Bellasis Street,
Karachi.

7. Hony. Secretary,
Karnatak Chamber
of Commerce,
Bagalkot,
Karnatak Province.

8. The Secretary,
Indian Chamber of
Commerce,
135, Canning Street,
Calcutta.

9. The Secretary,
Indian Sugar Producers'
Association,
Cawnpore.

10. The Hony. Secretary,
The Punjab Federation
of Industries,
Amritsar.

Copy forwarded to *

with reference to his letter

1831		15-6-39
I.C.11/4/30		20-6-39
325		20-6-39
2203		20-6-39
-	dated	22-6-39
No. G.C. 9/763		23-6-39
3483/38-39		25-6-39
01232		26-6-39
-		27-6-39
1013/39		30-6-39

Copy also forwarded for information to all the Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay) and the Income-tax Adviser to the Board and Indian Chamber of Commerce, Bombay.

By order, etc.,

6.7.39

First Secretary, Central Board of Revenue.

SR.
6/7.

S-N. 103

6 JA 1147

F.A.II

M. NW

CIRCULAR NO. 18 OF 1939.

C.No.46(15)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla. the 28th June 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
12 JUL. 1939
Diary No. 7169
File No.....

RO 31/39

C I R C U L A R

Forms - Income-tax - Use of old forms - Proceedings under section 34 - After the coming into force of the Indian Income-tax (Amendment) Act.

Penalties - Enhanced rate of - Applicability - Appeals - Rights to - Assessments under section 23(4).

The Board is advised that proceedings under section 34 for the year 1938-39 should after the 1st day of April 1939 be initiated by the issue of the old forms I.T.8 or I.T.11, as the case may be. The Board is therefore issuing a rule under section 59 formally notifying these two forms as the prescribed forms for returning the total income in respect of any income profits or gains liable to be assessed in any year ending before the 1st April 1939. As this will have legal effect only from the date on which the rule is finally promulgated Income-tax Officers should be instructed to take steps to legalise proceedings already started on or after 1st April 1939 under section 34 by serving fresh statutory notices along with the old form I.T. 90

2. In regard to pending assessments for the years 1938 ...

1938-39 and earlier years, the Board is advised that the appropriate forms to be used for notices under sections 22(4) and 23(2) are the revised forms I.T.13 and I.T.86 communicated with the Board's letters Nos. C.28(21)-I.T./39 dated 29th April 1939 and C.28(22)-I.T./39 dated 28th April 1939 irrespective of the question whether the proceedings, in relation to which they were issued, were commenced before or after the 1st April 1939. Failure to comply with any of the terms of these notices will be an act or omission committed after the Amendment Act has come into force and will, therefore, attract the penalties prescribed by sub-section (1) of section 28.

3. But in regard to penalties for concealment of income or for furnishing inaccurate particulars of such income in proceedings under section 34 for years prior to 1939-40 of such income, the enhanced penalty provided in the new section 28 would apply only in respect of returns filed on or after 1st April 1939. Where a return had been filed before that date the penalty for concealment should not exceed that provided by the section as it stood before the amendment.

4. In the case of assessments under sub-section (4) of section 23, which were completed before 1st April 1939, the assessee has no right of appeal. But if an assessment under this sub-section is made for any year earlier than 1939-40 on or after the 1st April 1939, the assessee has, under sub-section (1) of section 30 as amended, a right of appeal.

5. In all cases where the assessment is completed on

or ...

S.N.104

F.H.Y. 1a (1)

M.N.SU

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
12 JUL 1939
Diary No. 2174
File No.

RS 31/39.

Circular No.19 of 1939.

R.Dis.No.34(22)-I.T./39.

Central Board of Revenue.

Simla, the 29th June 1939.

...

Circular.

Appellate orders by Appellate Assistant Commissioners - Penalties - Enhancement or reduction of - Central scrutiny.

...

The Board has already issued instructions that all cases involving compositions or penalties or prosecution will be scrutinised at headquarters before final action is taken and that these instructions also apply to penalties which an appellate Assistant Commissioner contemplates to impose under section 28 of the Indian Income-tax Act, 1922. The question has been raised whether an Appellate Assistant Commissioner should also send his prospective orders under section 31(3)(f) to the headquarters for approval.

2. The revision of a penalty on appeal stands on a different footing from the original imposition of a penalty, and an Appellate Assistant Commissioner though free to take a different view of the facts or of the law in any particular case is not free to take a different view from the Central Board of Revenue on policy, i.e. on the severity of the penalty to be imposed

imposed for a particular type of offence or level of culpability. It is therefore not likely that in the absence of fresh evidence an Appellate Assistant Commissioner would need to interfere with the penalty imposed by the Income-tax Officer -- either to enhance or to reduce it.

3. In order to enable the Board to watch all cases in which the tax discharged is considerable or a penalty has been reduced or enhanced, or the action of the Appellate Assistant Commissioner has been apparently unsatisfactory it is necessary that the Commissioners of Income-tax should supply it with a copy of each appellate order which involves

(a) the reduction of more than Rs.1,000 tax;

(b) the enhancement or reduction of a penalty; or

(c) an important point of principle and of any order which though not in the above classes, the Commissioner of Income-tax considers should be brought to the notice of the Board owing to the manner of disposal or the decision which it contains.

4. In any case in which the Appellate Assistant Commissioner has gone wrong and his order in enhancing or reducing a penalty is opposed to the general policy the Board will

advise

S Nr. 104

3 Drafts Dr. f & T

Issue 14/7

Issued 19/7/39

DEPARTMENT.

BRANCH.

File No.

Serial No.

Letter / Memorandum / Telegram — Draft

R.Dis.No.F.31-39/Judl.

No. ~~NxxRx8~~ Dated 1915 July 1939

Class for telegrams

INLAND	FOREIGN
Immediate	Immediate
Important	Important
Express	Ordinary
Ordinary	Without priority

To be issued on

Issued on

1st Reminder

2nd Reminder

3rd Reminder

Heading:

Case or Diary No.

If post copy of telegram required

Date of despatch of above

List of enclosures

S.N.13 / c.p.19 (D)

(Code word for telegrams.)

From

The Commissioner of Income-tax
Civil and Military Stn.
Bangalore.

To

The Secretary,
Central Board of Revenue,
S i m l a.

Taxes on Income - Divisible net proceeds - Computation of.

Sir,

With reference to your letter C.No.109-I.T./38.(K.W.I), dated the 21st January 1939, I have the honour to say that there have been no defaults in the submission of annual returns section 21 for the year 1938-

I have, etc.,

14.7

for Commissioner of Income-tax.

13.7.39

13.7.39

S. 5.

MGIPC—S5—1595(S&P)MFP—(M-944)—6-3-39—60,000 Pads

S N 106

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 19th July *193* 9.

R.Dis.No. F.31-39 Judl.

A copy of the undermentioned paper(s) is forwarded to the

1. Collector and District Magistrate,
2. President, Municipal Commission,
3. Residency Surgeon,
4. Commissioner of Police,
5. Inspector of Schools,
6. District and Sessions Judge and Registrar of Assurances,
7. Registrar of Firms and Joint Stock Companies,
8. Officer in charge of the Hon'ble the Resident's Treasury,
9. Manager, Residency Press,

Civil and Military Station, Bangalore, for information and guidance.

~~for information,~~ in ~~continuation of~~ with reference to the ~~correspondence ending with (his)~~

Memorandum
~~letter~~ from
endorsement

~~No.~~ , ~~dated the~~

By order, etc.,

~~Secretary~~
Asst. Secy. to the Resident in Mysore.

List of papers.

Encls. to S.N.99 P.U.C.

1. Letter from the Government of India in the Finance Deptt. (Central Revenues) No.C.No.35(3)-I.T/39 dated the 2nd April 1939, with enclosure.

2. Letter from the Government of India in the Finance Deptt. (Central Revenues) No.C.No.35(3)-I.T./39 dated the 22nd May 1939.

(With 2 spare copies to No.1).

12 Sp. copies kept at bottom of file.

F.A

S.N. 108

C.No.21(5)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 3rd July 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 JUL 1939
Diary No. 7296
File No.....

N.NW

RD 31/39

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

Please see J.N. 2)
31(IV)39

The Commissioner of Income-tax,
Central and United Provinces.

Sir,

Register of Income-tax practitioners.

With reference to your letter No. T-41/39, dated the 28th April 1939, I am directed to invite a reference to Section 6, of Chapter XIV of the Income-tax Enquiry Report, 1936, and to say that in view of the objections to the maintenance of a register referred to therein, the Board considers that it is neither desirable nor necessary to maintain a register of persons entitled to practise under section 61. In any case in which a representative appears and he has no other qualifications than that he represented assessees before the 1st April 1938 and the Income-tax Officer is in doubt, he can easily call for evidence on the point (e.g., names of assessees, dates of appearance, etc.).

I have the honour to be,
Sir,
Your most obedient servant,

T.S.Pillay,
First Secretary, Central Board of Revenue.

Copy.....

Copy of correspondence forwarded to all the other Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay) and the Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue.

M.5.7.

F^ 1/

S.N.109

102
1577

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 JUL 1939
Diary No. 7297
File No.....

C.No.21(5)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 3rd July 1939.

M.N.S.V

RD 31/39

From

T.S.Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Bombay.

Sir,

Indian Income-tax Act, XI of 1922 - Amended section 61 - Representation of assessees.

In reply to your letter No. R.B.424/38, dated the 2nd May 1939, I am directed to refer you to the Board's Circular No. 12 of 1939 (R.Dis.No.589-I.T./38, dated the 7th June 1939) and to say that there is no objection to a qualified person's assistant appearing in the course of assessment proceedings so long as he is himself a duly authorised person.

* S.N.89 ⑦ ⑨

2. Section 61(1) prescribes that "any assessee who is entitled or required to attend before any Income-tax authority in connection with any proceeding under this Act ..... may attend by a person authorised by him in writing in this behalf ....." All that this means is that the assessee, if he wishes or if called upon to attend, may do so by deputy authorised in writing. But there are many cases where the assessee is not called upon to attend. For example, under sections 22(4) and 23(2) he may only be required to cause to be produced his accounts or evidence in support of his return. In such cases it is not necessary for him to authorise in writing under sub-section (1) of section 61 the person producing.....

producing the accounts or evidence, but an unauthorised person producing such accounts or evidence should be treated merely as a custodian of those accounts or evidence and no reliance should be placed upon any statement or explanation which he gives. Section 61 is attracted only when an assessee is either entitled or required to attend.

3. In cases, however, where the assessee is not summoned under section 37 and it is desirable to pin him down to definite statements or explanations, the notices requiring production of accounts or evidence should require the assessee to produce them and not require him to cause them to be produced. In such cases section 61(1) will apply and if he does not appear in person he will have to send an authorised agent whose statements will bind him.

I have the honour to be,
Sir,
Your most obedient servant,

T.S.Pillay,
First Secretary, Central Board of Revenue.

Copy of correspondence forwarded to:

The other Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay),

All Appellate Assistant Commissioners,

The Income-tax Adviser to the Board.

By order, etc.,

26/5/67

First Secretary, Central Board of Revenue.

M.5.7.

F.HY

S. N. 110

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D.O. C.No.3(4)-I.T./39.

CENTRAL BOARD OF REVENUE,
Simla, the 5th July 1939.

N. NSW

My dear Ansari,

Indian Income-tax (Amendment) Act, 1937 - Annual report regarding the working of - Board's circular No.1 of 1937 - C.No.120-I.T./37, dated 23rd March 1937.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
19 JUL 1939
Diary No. 7402
File No. 2031/35

Mullan's demi-official letter T.No.94/39, dated 11th June 1939.

I am desired to say that as section 16(3) now forms part of the substantive legislation, the annual reports called for in Board's Circular No. 1 of 1937 read with Mr. Sheehy's demi-official letter R.Dis.No. 120-I.T./37, dated the 23rd April 1937, need not be submitted in future.

Yours sincerely,
T.S.Pillay,

~~7.~~ 39.

Khan Bahadur M.A.G. Ansari, B.A., LL.B.,
Commissioner of Income-tax,
Central and United Provinces.

Copy forwarded to the Commissioner of Income-tax, Assam, with reference to his official letter No. 6/R-82/1939-40, dated the 15th May 1939, and to the other Commissioners of Income-tax, Major Provinces, with the intimation that the reports for the year 1938-39 may be submitted to the Board.

Copy forwarded to the Commissioners of Income-tax, Minor Provinces, for information, with reference to Board's circular No. 1 of 1937.

Not received here

By order, etc.,

K. B. Das 8.7.39.
for First Secretary, Central Board of Revenue.

M.7.7.

D.O. No.3(4)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 5th July 1939.

My dear [illegible],

Indian Income-tax (Amendment) Act, 1937 - Annual Report regarding the working of - Board's circular No.1 of 1937 - C.No.120-I.T./37, dated 23rd March 1937.

[illegible] Circular Letter T.No.94/39, dated 11th June 1939.

[illegible] reserved to any State to exempt [illegible] of any retroactive legislation, the annual [illegible] called for in Board's Circular No. 1 of 1937 [illegible] Sheely's demi-official letter [illegible] 120-I.T./37, dated the 20th April 1937, need not be submitted in future.

Yours sincerely,

T.B.PILLAI,

[illegible] 39.

[illegible] Baksdur M.A.C. Ansari, B.A., LL.B.,
Secretary to the Commissioners of Income-tax,
Central and United Provinces.

Copy [illegible] the Commissioners [illegible] Income-tax, [illegible] 3/R-
Assam, with [illegible] his office [illegible] 15th May 1939, and to the other
32/1939-40, [illegible] -tax, Major Provinces, with
Commissioners [illegible] for [illegible] 1938-39
the Institute [illegible]
may be supplied to [illegible].

[illegible] forwarded to the Commissioners of Income-
tax, [illegible] Provinces, for [illegible] with reference
to B[illegible] letter No. I [illegible] 1937.

[illegible] order, etc.,

for Pay & Secretary, Central Board of Revenue.

AY

S.N-111

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
19 JUL 1939
Diary No. 7403
File No. RD 31/39

R.Dis.No.95-I.T./38.
Central Board of Revenue.
Simla, the 8th July 1939.

...

ORDER

In exercise of the powers conferred by sub-clause (b) of clause (11) of section 2 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby determines in the case of those Insurance Companies and Provident Societies which have to change their accounting year to the calendar year in order to comply with the requirement of sub-section (1) of section 11 or sub-section (3) of section 82 of the Insurance Act, 1938 (IV of 1938), the period specified below to be the 'previous year' for the purposes of the assessment for the financial year commencing next after the end of calendar year in which the change is made, namely :-

(a) In the case of Companies whose accounting year ends on any date between the 1st January and the 31st March (both days inclusive).	The period from the end of their previous accounting year to the end of the calendar year in which the change is made.
(b) In the case of Companies whose accounting year ends on any date between the 1st April and the 31st December (both days inclusive).	The period from the end of the accounting year for the next previous

assessment..

assessment to the end of the calendar year in which the change is made.

First Secretary, Central Board of Revenue.

Copy forwarded to all Commissioners of Income-tax, All Chambers of Commerce, All Appellate Assistant Commissioners and the Income-tax Adviser to the Board.

Copy also forwarded to the Commerce Department, for information.

By order, etc.,

First Secretary, Central Board of Revenue.

SR.
10/7.

S. No 182.

C.No.333-I.T./38.

(817)

CENTRAL BOARD OF REVENUE

Simla, the 3rd July 1939.

From

T.J. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Commissioners of Income-tax,

Bombay,
Bengal,
Punjab.

Sir,

Audit of Income-tax receipts and payments.

I am directed to forward an extract of paragraphs 1, 5, 6, 7, 8 and 9 of Appendix 'A' to Mr. V.J.Sundaram's report on the question of auditing Income-tax receipts and to say that necessary orders on these matters should be issued at an early date and the Inspecting Assistant Commissioners be instructed to see that the orders are observed.

* * * * *

I have the honour to be,
Sir,
Your most obedient servant,

T.J. Pillay.

First Secretary, Central Board of Revenue.

Extract of paragraph 1 with enclosure forwarded to the other Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay, for information and necessary action.

By order, etc.,

5 - 7 - '39.
First Secretary, Central Board of Revenue.

Extract of paragraphs 1,3,6,7,8 and 9 of Appendix 'A'.

GENERAL.

It has been noticed in all the offices that the provisions of Section 56 of the Act are not complied with generally i.e. fractions of an anna equal to or exceeding six pies are disregarded. Special instructions should be issued in this connection.

* * * *

3. In some of the offices the Income Tax Officers do not themselves calculate the amounts of tax and surcharge on the assessment orders but leave it to the clerks. Where the Income Tax Officers do it personally the mistakes were few and far between and in the latter places petty mistakes were common. Special attention of the Income Tax Officers should be drawn to this.

* * * * *

6. It has been generally noticed that the gross amounts of dividend warrants were not correctly calculated with the help of ready reckoners from the net amounts shown in the warrants.

7. In Calcutta and Bombay the procedure for calculating refund is to prepare a separate assessment form for each case. The net refund determined is not recorded in the prescribed column of the original assessment form as laid down in paragraph 78(iii) of the Income Tax Office Manual, but on the reverse of the Supplementary form, made out for refund. This may lead to double claims being admitted if the supplementary form is removed from the file. The procedure requires modification.

8.....

8. The Treasury chalans were not in the files in most cases. The importance of this document viz., the chalan has been explained to the Income-tax Officer and the assistants. Special instructions should be issued for its compliance.

9. It has been noticed that the Dividend Warrants on which refund is allowed are not generally cancelled. The words "refund allowed and cancelled" should be recorded on each warrant in red-ink over the initials of the Income Tax Officers.

SN.113

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R.Dis.No.26(18)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 6th July 1939.

C... OF INCOME-TAX
... DEPARTMENT
INSPECTOR CALCUTTA
... 1939.
Diary No. 7431
File No.....

N. N.W

RD 31/39

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Bengal.

Sir,

Liability to income-tax -
Gratuities payable to railway
employees.

With reference to your letter No.4846/6A/24 C.T., dated the 9th June 1939, I am directed to say that gratuities payable to railway employees are liable to income-tax under the Indian Income-tax Act as amended vide Explanation 2 to section 7(1). I am to add that to mitigate the hardship it has been decided to give relief under section 60(2) by assessing these employees at the average rate of tax to which they were liable during the previous three years.

I have the honour to be,

Sir,

Your most obedient servant,

T.S. Pillay.

First Secretary, Central Board of Revenue.

Copy forwarded to all other Commissioners of Income-tax for information.

Copy also forwarded to all Appellate Assistant Commissioners of Income-tax and the Income-tax Adviser to the Board.

By order, etc.,

K. B. Deb
12 - 7 - '39.

for First Secretary, Central Board of Revenue.

J.P.11/7.

URGENT

No. Mis. 68
1939-40.

S N 11th.

OFFICE OF THE INCOME-TAX OFFICER,
CIVIL AND MILITARY STATION, BANGALORE.

Dated 13th July 1939.

FROM

J. N. Rajagopalan, Esq., B.A.,
INCOME-TAX OFFICER, CIVIL AND MILITARY STATION,
BANGALORE.

M. N. S. U

To

The Secretary
to the Hon'ble the Resident in Mysore
and Commissioner of Income-tax, Bangalore

OFFICE OF THE
HON'BLE RESIDENT
BANGALORE.
17 Jul 39
Dis. No. 7342
File No. 2231/39

SIR,

Identity cards - Outdoor Officers of the Income-tax Department - Your endorsement R.Dis.No.F.31-39/Judl dated 4-7-1939.

S.N. 92

I have the honour to state that Identity cards for outdoor Officers will be of use in Bangalore and that the estimated annual consumption of the same is four.

I have the honour to be,
Sir,
Your most obedient servant,

J. N. Rajagopalan
Income-tax Officer.

RSR.

S-N.115

2 Drafts
Draft I

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 26th July 1939.

Issued 24/7
Issued 26/7/39

R.Dis.No. F.31-39 Judl.

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

24.7

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

Endorsements from the Central Board of Revenue,

S.N.108 C.No.21(5)-I.T./39 dated the 3rd July 1939 with enclosures.
S.N.109 C.No.21(5)-I.T./39 dated the 3rd July 1939 with enclosures.
S.N.110 C.No.3(4)-I.T./39 dated the 5th July 1939 with enclosure.
S.N.112 P.U.C. C.No.333-I.T./38 dated the 3rd July 1939 with enclosures.
S.N.113 R.Dis.No.26(18)-I.T./39 dated the 6th July 1939 with enclosure.

S.N.111 Order of the Central Board of Revenue R.Dis.No.95-I.T./38 dated the 8th July 1939.

20.7.39

NS. 26.7.39

(Duplicate copies kept below.)

S.N. 116

2 copies Draft

R.Dis.No. F.31-39 Judl.

From

The Commissioner of Income-tax,
Civil and Military Station,
B a n g a l o r e.

Issue 24/7 Issued 26/7/39

To

The Secretary,
Central Board of Revenue,
S i m l a.

Dated Bangalore, the 26th July 1939.

Identity cards - Outdoor Officers of the Income-tax Department- Issue of.

Sir,

I have the honour to refer to your endorsement

S.N.88 D. C.No.133-Admn.(I.T.)/39 dated the 2nd June 1939.

2. Identity cards for Outdoor Officers will be of use in Bangalore. The estimated annual consumption is four.

I have the honour to be,

Sir,

Your most obedient servant,

24.7.

COMMISSIONER OF INCOME-TAX.

20.7.39

NS 21.7.39

S.N 117

No.F.31(18)-E/39.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 7528
No. 931/39.

A copy of the undermentioned papers is forwarded to

the Hon'ble the Resident at Hyderabad,
" " in Mysore,
" " for Central India,
" " for Rajputana,
" " for the States of Western India,
" " for the Punjab States,
the Resident for Baroda and the Gujarat States,
" in Kashmir,
" at Gwalior and for the States of Rampur and Benares,
" for the Madras States,
" for Kolhapur and the Deccan States,
" for the Eastern States,
the Military Adviser-in-Chief, Indian States Forces,

for information, in continuation of endorsement from the Political Department No.F.31(18)-E/39, dated the 24th June 1939.

S.N 99

By order, etc.,

for Secretary to His Excellency the Crown Representative.

Political Department,
Simla,
The 15th July 1939.

Circular letter from the Central Board of Revenue to all Accounts and Audit Officers C.No.35(3)-I.T/39 dated the 22nd May 1939 with enclosures.

(with 8 spare copies.)

SL.

C.No.35(3)-I.T./39.

Central Board of Revenue.

Simla, the 22nd May 1939-

From

T.S.Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

1. The Financial Adviser,
   Military Finance.
2. The Financial Commissioner, Railways.
3. The Crown Finance Officer.
4. The Finance Officer, Communications.
5. The Auditor General.
6. All Accountants-General
   (including the Military Accountant General,
   and the Accountant General, Posts and
   Telegraphs)
7. The Comptrollers, Assam, North-West Frontier
   Province, Sind and Orissa.
8. The Audit Officer,
   Indian Stores Department.
9. The Deputy Accountants General,
   Posts and Telegraphs, Delhi,
   Calcutta, Madras and Nagpur.
10. The Accounting Officer,
    Telegraph Check Office, Calcutta.
11. The Director of Audit, Defence Services.
12. The Director of Railway Audit.
13. The Controller of Railway Accounts.

Income-tax - Deduction of, from salary etc.- Memorandum of instructions for.

Sir,

In continuation of Finance Department (Central Revenues) endorsement C.No.35(3)-I.T./39 dated the 3rd April 1939, I am directed to enclose a copy* each of the papers noted in the margin for information and necessary action.

1. A.G.C.R's u.o.C.4-29-692, dated the 1st April 1939 to the Auditor General of India.
2. Board's reply to the Auditor General u.o.C.No.35(3)-I.T./39, dated the 22nd May 1939.
3. C.R.A's U.O.I.No.89-Admn./39, dated the 2nd May 1939 to Board.
4. Board's reply to the Controller of Railway Accounts u.o.C.No. 35(3)-I.T./39, dated the 22nd May 1939.

* Auditor General 3 & 4 only. C.R.A.1 & 2 only.

I have, etc.,

Sd. T.S.Pillay,

First Secretary, Central Board of Revenue.

Copy, with enclosures, forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay) and the Income-tax Adviser to the Board.

The following comments are offered for the consideration of the Auditor General:-

Paragraphs 2, 13 and 14 of the Memorandum.

According to paragraphs 4 and 13 of the Memorandum of Instructions, recalculation of the average rate as well as the amount of the monthly deduction of income-tax will have to be made each time the estimated income for the year is changed due to leave or officiating promotion even for short periods. Under the Act, as it stood before amendment, no change in the rate was, however, necessary unless the income was raised or lowered above or below a taxable limit and even then no calculation of the rate had to be made as this was fixed for each limit. The frequent recalculation of the average rate (or the rate for monthly deduction of income tax) will mean a good deal of increase of work for the Audit and Disbursing Officers. It is, therefore, for consideration whether such recalculations need at all be made during the currency of a year after the average rate for recovery of income-tax has been fixed at its beginning with reference to the estimated total income under Section 18(2) of the Act, as amended by Section 20 of the Amendment Act. As under the proviso to of the Act, readjustments during the currency of the year of excesses or deficiencies, are not mandatory, such readjustments may, it is suggested, be deferred till the correct assessment is made by the Income-tax Officer on the basis of the return submitted to him under Section 24(a)(1) of the Amendment Act.

(2) If, however, it is considered that unforseen periods of leave and officiating promotions materially affecting the annual income should not be left out of account for calculation of the average rate but that

there /-

there should be no objection to excluding short periods. I would suggest that periods of leave and officiating promotions not exceeding, say, 3 months should be excluded from the purview of such calculation.

(3) It is not clear whether on the occurrence of an event affecting the total estimated income (whether received or not), the new average rate of income-tax based on the total income and income-tax payable for the whole year should be applied to the balance of the income or whether the average should be worked out on the ratio of the balance of income-tax payable to the undrawn balance of the estimated salary, so as to ensure that the total income-tax recoverable on the estimated income is wholly recovered during the year. In example 1 under paragraph 14, for instance, the average income-tax has been worked out as 3.37 pies per rupee. If, however, the officer were to officiate on a higher rate of pay for some period during the year the average rate calculated in the same manner might be 5 pies in the rupee, but the average rate calculated on the undrawn balance of the salary and the balance of income-tax payable might be 6 pies per rupee. It is presumed the latter rate of 6 pies should be applied on the balance of the undrawn income, since this will hardly involve any appreciable extra work in the Audit Office.

Paragraph 6 of Draft Instructions.

It appears that pension payable outside British India is not regarded as salary for the purpose of charging income-tax. Explanation 2 under Section 4 of the Amendment Act excludes pensions payable outside India, and there seems to be, therefore, a discrepancy between paragraph 6 of the Memorandum and the Explanation referred to. It is presumed

that /-

that a pension payable in an Indian State or from the Nepal or the Gyantse Treasury is to be considered as pension payable in British India.

Paragraph 10 of Draft Instructions.

(1) Section 15 of the Indian Income-tax Act lays down that the tax shall not be payable on premia paid by the assessee. But in the note below Example 2 given under paragraph 14 of the Memorandum, it is stated that a proportionate monthly rebate will be allowed on the amount of premia payable during the year. It is presumed that at the end of the year the assessee would have to submit all the premium receipts to the Income-tax Officer, as it is quite possible that he may have surrendered a Policy or have delayed to pay a premium due at the end of the year by taking advantage of the days of grace usually allowed by Insurance Companies. This procedure would be troublesome to the assessee as compared with the present system where the rebate claim is admitted by the Audit Officer on production of the receipts and the Income-tax Officer does not re-examine the admissibility of these rebates.

(2) It is also not clear whether the concession admissible under Section 18(2) of the Indian Income-tax Act, viz. the grant of rebate on premia paid within 6 calendar months ending with the close of the month for which the salary is drawn will be allowed in future or not. The Central Board of Revenue may, if considered necessary, be asked to state the intention.

2. The Central Board of Revenue had asked me for my comments on the Memorandum. I have informed the Board that my comments are being communicated to the Auditor

General /-

General, who will, if he considers necessary, address them again with reference to the first sentence of paragraph 2 of his U.O.No.146-Adm.I/19-39, dated the 17th March 1939 to the Central Board of Revenue.

Sd/- A.C.Gupta.
1.4.1939.

The Auditor General of India.
A.G.C.R.U.O.C.4-29-692, dated the 1st April 1939.

Will the Central Board of Revenue kindly refer to their U.O.No.35(3)-17/39, dated the 13th March 1939 forwarding a copy of memo of instructions for the deductions of income-tax and Super-tax from salaries etc. commencing from 1st April 1939.

2. In the note under the examples given at the end of the memorandum referred to above it is laid down that in the case of Life Insurance Policies, which have been in existence during the whole of the preceding year, the person paying the salary should not insist on the production of premium receipts unless he has reason to believe that the policy has expired or been surrendered and a proportionate allowance should be given each month on the total premiums payable within the year. In this connection it may be pointed out that no record of the premium paid by the employees during 1938-39 is available. Moreover it is not an uncommon practice for a person to take out an assurance policy and surrender it after a few years and unless the paying authority has either seen the premium receipt or obtained a certificate that the policy is still current, a rebate may be granted where not due.

3. In the circumstances it would appear necessary that a declaration should be obtained from each assessee regarding the amount of premium payable by him during 1939-40 and also showing the date of expiry of such payments so as to enable the paying authority to give proportionate allowance each month on account of premiums as laid down in the note referred to above. Will the Central Board of Revenue kindly say whether they approve of the proposed arrangement.

4. /-

4. Again in view of what is stated in the concluding sentence of paragraph 2 above, it may kindly be stated whether a declaration may be obtained from each assessee every year or whether it may be left to the Income Tax Officer to verify that the rebates allowed by the paying authority are in order.

5. It is also requested that further instructions referred to in paragraph 7 of the memorandum cited above may kindly be expedited.

6. Further comments, if any, on the memorandum referred to above will follow.

Sd. Ramchandran
2.5.1939.

Central Board of Revenue
C.R.A's U).I.No.89-Admn.-39, dated 2nd May 1939.

CENTRAL BOARD OF REVENUE.

Income-tax - Deduction of, from salary etc. Memorandum of Instructions for.

Reference U.O.note of the Accountant-General, Central Revenues, dated the 1st April 1939 forwarded with the Auditor General's U.O. note No.195-Adm.I/19-39 dated the 7th April 1939.

The two points on which the Auditor General asks for reply are dealt with below:-

(a) Paragraph marked (3) of the Accountant-General, Central Revenue's u.o. note:- When there is definite information about a change in the estimated total income of an officer, the new average rate of incometax will have to be worked afresh (or taken from the Ready Reckoner recently published) and from the time when this change is known, tax should be deducted at the new average rate under section 18(2). The proviso to section 18(2) empowers the employer or paying officer to increase or reduce the amount deducted for the purpose of adjusting any excess or deficiency arising out of any previous deduction and where there has been a change in the estimated total income under the head "Salaries" the excess or deficiency in previous deductions can be readily ascertained (or it can be seen at a glance by reference to the Ready Reckoner) and adjusted from the subsequent deduction without making any adjustment to the new average rate at which tax in respect of current salary is being deducted.

(b) Paragraph (10) of the memorandum of instructions relating to rebate on life insurance premia:- Relief is due in respect of amounts paid during the year as in the past. If the facts relating to the rebate are clearly noted in the annual return under section 21 and

it /-

it is clear from that return that the paying officer has seen the original insurance receipts, it would ordinarily be unnecessary for Incometax Officers to call for, or for the assessees to submit such receipts at the time of assessment. The audit officer can allow rebate as at present on production or even without the production of the receipts of the receipts if he is satisfied that the policy is continuing. Instead of allowing the rebate on the actual amount paid, an employer (the audit officer in the case of Government servants) is given the further discretion in the note to example (2) of the memo to allow rebate on a figure proportionate to each month based on the total premia expected to be paid within the year.

This concession does away with the necessity for the existing concession allowing the grant of a rebate on premia paid within the six calendar months ending with the close of the month for which the salary is drawn. The latter concession is, therefore, being withdrawn.

Sd. T.S. Pillay,
20.5.39.

First Secretary, Central Board of Revenue.

THE AUDITOR GENERAL.
C.B.R. U.O. C.No.35(3)-I.T./39, dated 22.5.39.

CENTRAL BOARD OF REVENUE.

Income-tax - Deduction of, from salary etc. - Memorandum of Instructions for.

C.R.A's note U.O.I.No.89-Admn.-39, dated the 2nd May 1939.

Paragraphs 2 and 3 - Abatement in respect of life insurance premia - The procedure laid down in the Note to Example 2 under paragraph 14 of the Memorandum of Instructions is intended to facilitate the work of paying officers and they will have to prescribe the proof they will accept about the continuance of the policy. The Board does not see any objection to the suggestion for obtaining a declaration from each officer as sufficient proof.

Paragraph 4. The Income-tax Officers have already been instructed to call for the original receipts when making the final assessment in cases in which such receipts have not been seen by the paying officers. In making the annual return under section 21 it should be specifically stated whether the original receipts had been seen or not.

Paragraph 5. Deduction of tax on leave salaries and leave allowances. The Auditor General has already issued instructions in the matter vide his letters No. 174-Admn.-I/19-39 dated the 18th March 1939 and 4th April 1939 to Accountants General, Comptrollers, etc.

Sd. T.S.Pillay,
20.5.1939.

First Secretary, Central Board of Revenue.

C.R.A.
C.B.R. U.O.C.No.35(3)-I.T./39, dated 22.5.1939.

S. N-118

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 7623
File No. CA-31/35

CIRCULAR No. 15 OF 1939.

C. No. 28 (36)-I. T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

Memorandum of Instructions regarding the filling up of the back of the form I. T. 30.

A new form I. T. 30 has been standardised in conformity with the amendment of the I. T. Act. Some changes have been made of the cages at the back of the form.

Income assessed has been shown under two broad heads, *i.e.* :—

(*a*) Income arising, accruing or received in British India. (This includes income deemed to accrue, arise or be received in British India.)

(*b*) Income arising abroad.

Under the sub-head " Income from other sources " separate specification of income has been shown of which the second item namely " Interest or other sums received under deduction of tax " has been inserted specifically for the purpose of entries of net tax in respect of sums of interest, etc., received by non-residents from which deduction of tax is now obligatory under section 18. Entries against this specific source will only be necessary if the assessee is a non-resident.

In the column for " amount of tax " only the figures of net positive income-tax should be shown. Such tax should be arrived at by calculating the gross amount of tax on the respective amount of income at the average rate of income-tax shown on the front page of I. T. 30 and deducting therefrom, wherever necessary, the corresponding amount of tax deducted or otherwise paid at source.

The relative figures against item " deduction on account of section 7 (1), 15, 58-F and 58-R " and " Refund or rebate under " should be shown in red ink. Entries against the item " Refund or rebate under " should be made only when there are figures of net refund or rebate for the items in question. The source of income on account of which such refund or rebate is allowed should be noted in the space reserved against this item. The amount of refund or rebate should be arrived at by deducting the gross amount of tax calculated on the respective items at the average rate of income-tax shown on the front page of the form from the corresponding amount of tax deducted or otherwise paid at source.

It should be noted that in any particular head of income there cannot be entries both in the column for " amount of tax " and also against the item " Refund or rebate under ".

The separate cage which appeared in the old form under the head " classification of refunds and rebates " has not been incorporated in the new form, but all the items of relevant information are shown in the " classification of net demand ", the only exception being the item " Rate of refund or rebate ".

As an illustration of the above, two I. T. 30 forms filled in—one for a Resident and the other for a Non-Resident [coming under the first part of section 17 (1)]—are appended.

In these specimens the rate of tax has been worked out to two places of decimals, which should ordinarily be sufficient. Small differences of a few annas can be adjusted under one or more of the larger items. In the example for a Resident a difference of eight annas has been adjusted against the items A (4) and B 2 (*a*), and in that, for a Non-Resident, a difference of three annas has been adjusted against item A 3.

(Sd.) T. S. PILLAY,
First Secretary,
Central Board of Revenue.

To

All Commissioners of Income-tax [including the Commissioner of Income-tax (Central), Bombay].

All Appellate Assistant Commissioners of Income-tax.

Income-tax Adviser to the Board.

M45CBR

For a Resident.

ASSESSMENT FORM.

Assessment for 19 -19 under Section of the Income-tax Act, 1922.

Name of assessee..... District or Area.....

Status..... Number in General Index .....

Address..... Number of Miscellaneous Record.....

Detailed sources of income.	Amount of income.	Tax already deducted or otherwise paid at source.			
		Income-tax.		Super-tax.	
	Rs.	Rs.	A.	Rs.	A.
Total income—					
Salaries	2,400	75	0		
Interest on securities	2,000 (A)	187	8		
Property	1,200				
Business, Profession or Vocation.	16,000 (B)				
Other sources. (In the case of dividends the gross amount liable to tax and the tax appropriate should be shown).					
1. Dividend	1,000	156	4		
2. Interest and Brokerage	2,000 (C)				
3.	..				
Total income ..	24,600	418	12		
Adjustments to total income to arrive at total world income* (give details).	..				
Total World income* ..	..				
Gross income-tax and super-tax chargeable on Total income ..	..	2,679	11		
Gross income-tax and super-tax computed on Total World Income*	..				
Average rate of income-tax 20·91 pies in the rupee	..				
Sums included in total income in respect of which income-tax is not payable .—	Rs.				
(*a*) Under section 7 (1) or on account of a Provident Fund to which the Provident Funds Act, 1925, applies.	150				
(*b*) On account of recognised Provident and Superannuation Funds	..				
(*c*) On account of Insurance premia	3,000				
(*d*) Share from association of persons or from an unregistered firm the profits of which have been assessed to income-tax.	3,000				
(*e*) Interest from tax-free securities of the Central Government or of a Provincial Government.	800				
Total amount upon which relief is due, and income-tax thereon ..	6,950	756	14		
Deduct income-tax and super-tax deducted or otherwise paid at source as above.	..	418	12		
Double income-tax relief	..				
Net amount of income-tax and super-tax $\frac{\text{payable}\dagger}{\text{~~refundable~~}\dagger}$		1,504	1		
Penalties under Section ~~25 (2),~~ 28, ~~44 E, 44 F and 46~~ (1)†		100	0		

Total sum $\frac{\text{payable}}{\text{~~refundable~~}}$ (in figures as well as in words).

Rs. 1,604-1 (figures) ; Rupees One thousand six hundred and four and anna one only (words).

Date.....19 .

Income-tax Officer.

(A) Includes Rs. 800 tax-free.

(B) Includes Rs. 3,000 share of unregistered firm taxed and Rs. 5,000 income arising abroad.

(C) Includes Rs. 1,000 arising abroad.

* To be completed in the case of non-residents only.

†. Delete inappropriate words or figures.

I. T. 30.

CLASSIFICATION OF *NET* DEMAND.

Classification.			Amount of tax.	
			Rs.	A.
A.—*Income arising, accruing or received in British India.*				
1. Salaries paid by or due from—				
(*a*) *Central Government*			186	6
(*b*) *Provincial Government*				
(*c*) *Local Authorities*				
(*d*) *Companies, other bodies and associations*				
(*e*) Private employers				
2. Interest on securities of—				
(*a*) *Central Government*				
(*b*) *Provincial Government*				
(*c*) Other interest				
3. Income from property			130	11
4. Profits and gains of business, profession or vocation			871	10
5. Income from other sources—				
(*a*) *Dividend*				
(*b*) Interest or other sums *received under deduction of tax* ..				
(*c*) Others			108	15
B.—*Income arising abroad.*				
1. Assessed on remittance basis				
2. Assessed on arising basis—				
(*a*) *Business, profession or vocation*			544	11
(*b*) Others			108	15
	Total		1,951	4
Add—				
Penalty under section 25 (2)				
,, ,, ,, 28			100	0
,, ,, ,, 44 E				
,, ,, ,, 44 F				
,, ,, ,, 46 (1)				
			2,051	4
	Rs.	A.		
Deduct—				
(*a*) Deduction on account of section 7 (1), 15, 58 F and 58 R	343	1		
(*b*) Total net refund or rebate under—				
Interest on securities	56	13		
Dividend	47	5	447	3
Net Total ..			1,604	1

Date of issue of notice of demand/refund order.	Record of cash refunds.
	Number of voucher. Date of voucher. Amount of refund. Reason for refund.

*Return.

N = Not submitted.

A = Submitted and accepted.

R = Submitted but assessment not based on it.

*Accounts.

N = Not submitted.

A = Submitted and accepted.

R = Submitted but assessment not based on them.

[*Note.*—For the purpose of compiling Annual Return No. VIII Income-Tax Officers should invariably strike out the inapplicable entries.]

SN 119

No. I.T.Gl. | 86

OFFICE OF THE INCOME-TAX OFFICER,
CIVIL AND MILITARY STATION, BANGALORE.

Dated 21st July 1939.

FROM

J. N. Rajagopalan, Esquire, B.A.,

INCOME-TAX OFFICER, CIVIL AND MILITARY STATION,

BANGALORE.

OF THE
RESIDENT
ORE.
7598
GA 31/39

TO

The Secretary to the Hon'ble the Resident
and Commissioner of Income-tax,
C. &. M. Station,
BANGALORE.

SIR,

Payment of Income-tax refunds by M.O.

S.N. 35 of (1) C.F. 66

With reference to your endorsement .R.Dis.No.F.31-39/Judl. dated the 17th June 1939, I have the honour to enclose herewith a set of instructions to be issued to the Income-tax Officer. The number of cheque books required is being intimated to the Accountant General, Madras.

I have the honour to be,
Sir,
Your most obedient servant,

J. N. Rajagopalan.
INCOME-TAX OFFICER.

VDA 21/7.

DESPATCHED
22 JUL. 1939

2. Schedule of receipts.

3. List of cheques issued during the month.

& 4. Schedule of settlement with Treasuries with a consolidated treasury receipt and a certificate of cheques paid- c.f. Article 450 C.A.C., Volume II.

(v) The Income-tax Officer should maintain a cash book in P.W.A. Form 1 and as soon as a cheque is issued the transaction should be recorded in it. If in any case a money order is returned by the Post Office as undelivered its amount should at-once be taken to the Cash Book as an item of receipt and remitted into the Treasury under the head "Cash remittances between offices rendering accounts to the same Accountant General, Miscellaneous remittances - Income-tax remittances".

c.p. 6.

c.p. 5-6- 5-7

(vi) The new procedure should be given effect to from the date of supply of cheque books. The cheque books required by the Income-tax Officer will be supplied to him by the Accountant General through the Officer-in-charge of the Hon'ble the Resident's Treasury. The Income-tax Officer should intimate to the Accountant General immediately his requirements of cheque books to facilitate supply through the treasury.

c.p. 5-7

c.p. 5-

c.p. 55-

The date from which the new procedure is introduced should be intimated to the Commissioner, the Treasury and the Accountant General.

~~The existing procedure will continue in regard to payment of income-tax refund orders otherwise than by money orders~~

-----:0:-----

VDA 21/7.

(J. N. Nagopalan) Asst.

S.N. 120

Circular No. 20 of 1939.

D.Dis. No. 28(9)- I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 13th July 1939.

....

OFFICE OF THE
[illegible]
Diary No. 7699
File No. RA 3/39

CIRCULAR.

Assessments - 1939-40 - Relief in respect of life insurance premia and provident fund contributions - Revised instructions regarding.

....

In all assessments for the year 1939-40, the relief in respect of insurance premia and provident fund contributions should be computed on the new basis laid down in Section 15 as amended by the Indian Income-tax (Amendment) Act, 1939, i.e. the limit of Rs. 6,000, or Rs. 12,000, as the case may be, imposed under section 15 of the amended Act, should be applied. This point is of practical importance in all cases in which tax has been deducted at source from salaries and relief given in respect of life insurance premia on the old basis and the new limits have been exceeded. Assessment is necessary in such cases to recover the extra tax due. Income-tax Officers should, therefore, be asked to take necessary action in all cases affected. The above instructions supersede those contained in the last sentence of paragraph 1 of Board's Circular No.5 of 1939 (D.Dis.No.28(9)-I.T./39.)

S.N.34
e.f. 64

First Secretary, Central Board of Revenue.

To
All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay).
A copy of the circular should be supplied to all Income-tax Officers.
The Income-tax Adviser to the Board.

R.17/7.

3 Defts
D. aff-t S N 121

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th ~~July~~ August *193* 9.

Issue
11/8/39

Issue
4/8

R.Dis. No. F.31-39
Judl.

A copy of the undermentioned ~~papers~~ paper is forwarded to the
Collector and District Magistrate,
Residency Surgeon,
Commissioner of Police,
Inspector of Schools,
District and Sessions Judge, Registrar of Assurances,
and Registrar of Firms and Joint Stock Companies,
Officer in charge of the Hon'ble the Resident's
Treasury,
President, Municipal Commission,
Manager, Residency Press,

Civil and Military Station, Bangalore, for information and guidance

~~for information,~~ ~~in continuation of~~ ~~with reference to~~ ~~the correspondence ending with~~ (his)

~~Memorandum~~
~~letter~~ / endorsement from this Residency R.Dis.No.F.31-39/Judl, dated the

S.N.106 19th July 1939.

~~No.~~ , ~~dated the~~

By order, etc.,

4/8

~~Secretary~~ / Asst. Secy. to the Resident in Mysore.

List of papers.

Encl to
S.N.117
P.U.C. Circular letter from the Central Board of Revenue to all Accounts and Audit Officers, C.No.35(3)-I.T/39 dated the 22nd May 1939 with enclosures.

Sp.copies kept at bottom.

28.7.39

AsRao
28.7.39

9/8

S.N.122

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th Aug. 1939.

No.

A copy of the undermentioned paper(s) is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

for information, in continuation of / with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

No. dated the

By order, etc.,

for Secretary / ~~Asst. Secy.~~ to the Resident in Mysore.
and Commissioner of Income-tax.

List of papers.

S.N.118 P.U.C. 1. Circular from the Central Board of Revenue No.15 of 1939 dated the 15th June 1939.

S.N.120 P.U.C. 2. Circular from the Central Board of Revenue No.20 of 1939 dated the 13th July 1939.

(With 3 spare copies.)

S N 123

R.Dis.No. F.31-39
Judl.

THE OFFICE OF THE COMMISSIONER OF INCOME-TAX,
CIVIL AND MILITARY STATION, BANGALORE.

Dated the 16th August 1939.

MEMORANDUM OF INSTRUCTIONS FOR REFUND
OF INCOME-TAX BY MONEY ORDERS.

* * * * * * *

The existing procedure laid down for the payment of Income-tax refunds by money order having been modified by the Government of India, the following instructions are issued for the guidance of the Income-tax Officer:-

(i) Where a refund is paid by money order the Income-tax Officer should check the amount found to be due for refund in the first certificate of the voucher but should pass for payment a sum representing the amount due for refund plus the amount of money order commission.

(ii) Instead of sending the money order form along with the refund voucher to the Treasury Officer, as at present, the Income-tax Officer should retain the refund voucher and send the money order form duly completed to the Post office direct along with a cheque in favour of the Post-master concerned to cover the total amount of the refund and the money order commission thereon. The Post office will arrange to pay the amount of the refund to the refundee and cash the cheque at the Bank.

(iii) The Postal receipt received by the Income-tax Officer should be pasted on the back of the counterfoil of the refund order and the payee's acknowledgment when received from the Post-master should be sent to the

Accountant

Accountant General, Madras with the paid refund voucher, along with the monthly account referred to in instruction (iv). If in some cases it is not possible to transmit the payee's acknowledgment to the Accountant General along with the paid voucher, it should be sent to him later.

(iv) The Income-tax Officer should submit to the Accountant General, Madras on the 5th of each month a classified departmental account in the form enclosed in respect of cheques drawn by him in the previous month. The account should be accompanied by the following documents.

1. List of payments with vouchers.
2. Schedule of receipts.
3. List of cheques issued during the month.
and
4. Schedule of settlement with Treasuries with a consolidated treasury receipt and a certificate of cheques paid - c.f. Article 460 Civil Account Code, Volume II.

(v) The Income-tax Officer should maintain a cash book in P.W.A. Form 1 and as soon as a cheque is issued the transaction should be recorded in it. If in any case a money order is returned by the Post Office as undelivered its amount should at once be taken to the Cash Book as an item of receipt and remitted into the Treasury under the head "Cash remittances between offices rendering accounts to the same Accountant General, Miscellaneous remittances - Income-tax remittances".

(vi) The new procedure should be given effect to from the date of supply of cheque books. The cheque books required by the Income-tax Officer will be supplied to him by the Accountant General through the Officer-in-charge of the Hon'ble the Resident's Treasury. The Income-tax Officer should intimate to the Accountant General immediately his requirements of cheque books to facilitate supply

supply through the treasury.

The date from which the new procedure is introduced should be intimated to the Commissioner, the Treasury and the Accountant General.

for

For COMMISSIONER OF INCOME-TAX.

To

The Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and communication to the Income-tax Officer.

Copy to

(1) The Accountant General, Madras, with reference to his letter No.T.M.3-1-03/39-40, dated the 18th April 1939. The Income-tax Officer will send him direct an indent for cheque books.

(2) The Officer in charge of the Hon'ble the Resident's Treasury, Bangalore.

KK

S.N12.4

D.Dis.No.269-Admn.(I.T.)/39.

CENTRAL BOARD OF REVENUE.

Simla, the 24th July 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Punjab.

Sir,

Recess in Hills - Assistant Commissioners of Income-tax - Permission for.

...

With reference to your letter No.1883, dated the 18th July 1939, I am directed to say that the Board regrets that it cannot agree to Assistant Commissioners of Income-tax, Appellate or Inspecting, recessing at Hill Stations. I am to add that the practice of allowing them to recess in Summer months should, if it has existed, be discontinued.

I have the honour to be,
Sir,
Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy forwarded to other Commissioners of Income-tax.

By order, etc.,

First Secretary, Central Board of Revenue.

R.25/7.

C.No.46(16)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 21st July 1939.

...

From

T.S. Pillay, Esquire, B.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Indian Income-tax Rules 1922 - Rules 2 to 6 and 19 - Amendment of.

....

I am directed to invite your special attention to Board's notification No.69-Income-tax, dated the 22nd July 1939 (published in Part I of the Gazette of India of the same date) with which have been published certain draft amendments to Rules 2, 3, 6 and 19 of the Indian Income-tax Rules, 1922 relative to the signing of the application for registration of a firm and the declaration appended to the form of return of total income. The amendment to Rule 19 is intended to supersede the instructions contained in Board's circular No. 11 of 1933 (R.Mis.No.443-I.T./33, dated the 8th August 1933).

I have the honour to be,
Sir,
Your most obedient servant,

22.7.'39.
First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser, for information.

F.A.W. S.No. 127

2517/ C.No.46-(11)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 20th July 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Accountant General,
Posts and Telegraphs,
New Delhi.

Sir,

Indian Income-tax Rules 1922 -
Amendment of - Rule 12 -
Interest on securities -
Tax deducted at source -
Supply of particulars to
the Income-tax Officers.

I am directed to refer to your letter No. Misc.T-135/28-J-1, dated the 25th April 1939, in which you suggest that revised rule 12 of the Indian Income-tax Rules should not be made applicable to Government securities in the custody of the Accountant General, Posts and Telegraphs. Two reasons have been adduced in support of the proposal, viz. -

(1) the compilation of the statement will mean additional work and expenditure in the Deputy Accountant General's Office; and

(2) in the absence of the addresses of the investors in the Deputy Accountant General's Office the Statement prepared may not be of any practical use to the Income-tax Authorities.

2.....

2. The Board appreciates the argument in (1) above but, in a matter like this, it is undesirable to create a distinction in favour of a Government Department. As, however, the inducement, in the form of a tax-free concession, to purchase Government securities through the Post Office has now been taken away the extra work thrown on the Postal Department is likely to decrease year after year.

3. With regard to (2), the Board understands that the Deputy Accountant General sends to the Head Post Offices twice a year a list showing the number of the Savings Bank account of each investor and the amount of interest to be credited to that account on account of securities held by the owner of that account. When the list is received in the Head Post Office, the amount of interest is entered in the ledger account of the particular depositor and an intimation is sent to the depositor asking him to send his pass book so that the amount of interest may be entered therein. The address of each investor is known to the Head Post Office. It has, therefore, been suggested that if the Deputy Accountant General prepares an additional copy of the half-yearly list, providing a column for the purpose of entering the address, and sends it to the Head Post Offices, the latter could, while entering the interest in the various accounts in the ledger, fill in the addresses of the depositiors as entered in the ledger in the relevant column of the additional copy and

forward.....

forward it to the Income-tax Officer specified by the Commissioner of Income-tax concerned. The Commissioners of Income-tax are being asked to intimate to each Head Post Office in their jurisdiction the particular Income-tax Officer (and his address) to whom the list is to be sent.

4. No list is necessary in respect of persons living in Indian States but as many Head Post Offices situated in Indian States deal with accounts of persons living outside the States and as it would be difficult for the Postmaster to distinguish between persons living in and persons living outside the States, it is proposed that these Head Post Offices also should send the list to the Commissioner of Income-tax specified below for such action as he may consider necessary:-

Head Post Offices situated in Indian States.	Commissioner of Income-tax to whom the list is to be sent.
Bengal and Assam Circle	Commissioner of Income-tax, Bengal.
Bombay and Sind and Baluchistan Circles.	Commissioner of Income-tax, Bombay, Sind and Baluchistan.
Central Circle .. United Provinces of Agra and Oudh Circle ..	Commissioner of Income-tax, Central and United Provinces.
Madras Circle	Commissioner of Income-tax, Madras.

Punjab.....

Punjab and N.W.F. Circle.	Commissioner of Income-tax, Punjab, N.W.F. and Delhi Provinces.
Bihar and Orissa Circle.	Commissioner of Income-tax, Bihar and Orissa.

5. I am to suggest that, if you have no objection, the above procedure may be adopted for the compilation of the statement required by revised rule 12 of the Indian Income-tax Rules which has been finally published in the Gazette of India dated the 13th May 1939, with Board's notification No.40-Income-tax. It will facilitate matters if full names of investors are inserted in the statement.

I have the honour to be,
Sir,
Your most obedient servant,

22-7-39

First Secretary, Central Board of Revenue.

Copy forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax, (Central Bombay). With reference to the concluding sentence of paragraph 3 above, necessary action should be taken immediately and a copy of the letter should be endorsed to the Board. The Income-tax Officers selected should be instructed that if any list received by them from the Head Post Offices contains particulars relating to investors who do not reside in their jurisdiction, relevant extracts therefrom should be passed on to the Income-tax Officers concerned. Similarly, in the case of lists received by Commissioners from the Head Post Offices situated in Indian States, relevant extracts therefrom should be sent to the Commissioners of Income-tax of the provinces concerned.

Copy.....

Copy of correspondence also forwarded to the Director General, Posts and Telegraphs, for information and necessary action.

Copy also forwarded to the Income-tax Adviser to the Board.

By order, etc.,

26 May

First Secretary, Central Board of Revenue.

R.22/7.

S.N.128

No.F.31(18)-E/39.

A copy of the undermentioned papers is forwarded to the

Hon'ble the Resident at Hyderabad,
" " in Mysore,
" " for Central India,
" " Rajputana,
" " the States of Western India,
" " the Punjab States,
Resident for Baroda and the Gujarat States,
" in Kashmir,
" at Gwalior and for the States of Rampur and Benares,
" for the Madras States,
" Kolhapur and the Deccan States,
" the Eastern States,
Military Adviser-in-Chief, Indian States Forces,

for information, in continuation of endorsement from the Political Department No.F.31(18)-E/39, dated the 15th July 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
31 JUL. 1939
Diary No. 7860
File No. 1/9 31/39.

By order, etc.,

for Secretary to His Excellency the Crown Representative.

Political Department,
Simla.
The 25th July 1939.

- - - - - -

Circular letter from the Central Board of Revenue to Accounts and Audit Officers .C.No.35(3)-I.T./39 dated the 29th June 1939 with enclosures.

(with 8 s.cs).

HNT.

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 29th June 1939.

From

T. S. Pillay, Esqr., M.A.,B.L.,

First Secretary, Central Board of Revenue.

To

1. The Financial Adviser, Military Finance.
2. The Financial Commissioner, Railways.
3. The Crown Finance Officer.
4. The Finance Officer, Communications.
5. All Accountants-General (including the Military Accountant General, and the Accountant General, Posts and Telegraphs).
6. The Comptrollers, Assam, North-West Frontier Province, Sind and Orissa.
7. The Audit Officer, Indian Stores Department.
8. The Deputy Accountants General, Posts and Telegraphs, Delhi, Calcutta, Madras and Nagpur.
9. The Accounting Officer, Telegraph Check Office, Calcutta.
10. The Director of Audit, Defence Services.
11. The Director of Railway Audit.
12. The Controller of Railway Accounts.

Sir,

Income-tax - Deduction of, from salary etc.- Memorandum of Instructions for.

In continuation of my letter C.No.35(3)-I.T/39, dated the 22nd May 1939, I am directed to enclose a copy

Encl. to S.N. 11Y (3) each...

each of the papers noted in the margin for information

1. Extract of Auditor General's U.O.I. No.146-Admn.I/19-39, dated the 17th March 1939, and U.O.I.No.T.334-Admn.I/19-39 dated 7th June 1939 (with enclosures). 2. Board's reply to the Auditor General u.o.C.No.35(3)-I.T./39 dated 29th June 1939.	and necessary action.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/ T.S. Pillay,
30.6.39.

First Secretary, Central Board of Revenue.

Copy with enclosures forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay) and the Income-tax Adviser to the Board.

HNT.

Extract from Auditor General's U.O.I.No.146-Admn.I/19-39, dated the 17th March 1939.

The Auditor General makes the following comments on the draft Memorandum of Instructions.

Paragraph 5. It is not clear exactly when this paragraph will be applicable. It is presumed that it will not apply to Government servants on leave but will apply to Agents of Government and Consuls abroad. If this is correct, the paragraph might be amplified to make the position clear.

Paragraph 10. Apparently the ruling in the penultimate sub-paragraph of paragraph 73(XI) in Part II] (page 234) of the Income-tax Manual will not continue to apply as, according to Example 2 in paragraph 14 of the Memorandum of Instructions, the person responsible for deducting income-tax at source will have to carry out a check against the limits prescribed for allowing rebate. If this is to be the position, this paragraph might be amplified to make it clear.

Paragraph 11. It is possible for Government to specify particular expenses which are exempt from tax, and it is desirable that they should be specified to save friction.

Extract from Auditor General's U.O.I.No.T.334-Admn.I/19-39, dated the 7th June 1939.

I enclose for consideration and orders a copy of a letter received from the Accountant General, Punjab, No.T.M.21-59/173, dated the 13th May 1939, in which he has discussed certain matters arising from the procedure prescribed in the Memorandum of Instructions for the deduction of income-tax and super-tax commencing from the 1st April 1939. Orders are necessary on all the three points raised by the Accountant General.

2. In connection with paragraph 3 of the letter, a reference is invited also to sub-paragraph (1) and (2) of the note of the Accountant General, Central Revenues on paragraphs 2, 13 and 14 of the Memorandum of Instructions a copy of which was forwarded to the Board with the Auditor General's U.O.I.No.195-Admn.I/19-39, dated the 7th April 1939; a reference on similar lines has also been received from the Accountant General, Bombay. The Auditor General would like particularly to know whether from the point of view of the Income-tax Department there would be any objection of principle to readjustments of deductions at source in the course of the year being made at specified intervals, say, half yearly.

Sd/ A.C. Badenoch,

7 - 6 - '39.

Copy of a letter No.T.M.21-59/173, dated the 13th May 1939, from the Accountant General, Punjab, Lahore, to the Auditor General of India, New Delhi.

Instructions for the deduction of income-tax and super-tax commencing from 1st April 1939.

I have the honour to invite a reference to the letter from the Government of India, Finance Department to all Provincial Governments and Administrations No. C.No.35(3)-I.T./39, dated the 3rd April 1939, a copy of which has been sent to you direct forwarding a memorandum on the subject cited above and to solicit your orders on the following points :-

2.(a)- Instructions No.10(d) and the note below example 2 under para 1 :-

It is not clear whether abatement has to be allowed in respect of premiums paid prior to 1st April 1939 as required by instruction 73(xi) in part III of the Income Tax Manual, if the premium receipt is presented within six months. The note below the example referred to above seems to restrict the abatement to the total premium payable within the year. The abatement on account of premium paid during the last six months has, however, been allowed provisionally.

(b) Instruction No.11 :-

Prior to 1st April 1939, income tax was not deducted from Fixed Travelling Allowance, Motor Car Allowance Conveyance allowance and Sumptuary allowance, in accordance with Note 2 below rule 4(3) on page 115 of the Civil Account Code, Volume I, Eighth Edition (Reprint). The concluding sentence of this instruction

requires.....

requires that income-tax and super-tax should be deducted in the first instance from such allowances except where the Income-tax Officer has agreed to the amount to be allowed. I may kindly be informed whether the intention is that unless the Income-Tax Officer certifies that income-tax and super-tax have not to be deducted from these allowances payable to an individual, the deduction should be made by this office in all cases in which it is responsible for the correct deduction of income-tax under Note to Article 131(K) of the Audit Code, Volume I. Incidentally it is presumed that the onus of obtaining such certificates rests on the assessees.

3. I would also enquire whether the average rate of income-tax worked out at the beginning of the year should be revised and adjustments of income-tax made if a person receives an honorarium or enhanced pay for some period during the year on account of officiating promotion or reduced pay due to reversion or leave on half average pay etc. Such revisions, if undertaken, would no doubt result in increased work but it is presumed that it is not the intention to leave the obligation of re-adjustment to the Income-Tax Officer's at the end of the year. If my presumption be correct, I shall address you on the subject of the additional help required by the Gazetted Audit Department.

As an alternative it is for consideration whether revisions of the average rate of income-tax instead of being effected on each and every occasion of a change in emoluments may not be carried out at fixed intervals, say half yearly or quarterly. Any instructions that may be issued in this connection, will, it is presumed, be applicable to all other disbursing officers.

4(3)(vi) still continues, and paragraph 11 of the Memorandum of Instructions was not meant to refer to these payments. This paragraph applies to cases where a person is given a salary, out of which he has to meet certain necessary expenses (e.g. a life insurance agent who is paid a consolidated salary out of which he has to meet his travelling expenses). There will be usually no such claim in the case of Government servants.

Ibid paragraph 3. There is no objection from the point of view of the Income-tax Department to Account Officers making adjustments in respect of deductions at source at periodical intervals. In fact, the proviso to section 18(2) actually gives them the power to do so. The only point to be borne in mind is that such adjustments should not come into the account of two years; that is, adjustments should not be made from payments on or after the 1st April of any year in respect of any excessive or deficient deduction made prior to that date. Some suitable dates may be fixed by the Auditor General for Account Officers to make these adjustments.

A copy of this note is being sent to all Account Officers.

Sd/ T.S. Pillay,

30.6.39.

First Secretary, Central Board of Revenue.

The Auditor General

C.B.R. U.O.C.No.35(3)-I.T/39 dated 29.6.39.

F.A 42

J. No 129

J. PMC 7/8/39

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 AUG. 1939
Diary No. 8223
File No.....

D.A.Dis.No.42(5)-I.T./39.

CENTRAL BOARD OF REVENUE

RD 31/39

Simla, the 25th July 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Exemption from income-tax - Privilege leave pay - Advances of - Drawn in India - Adjustment made ex-India before 1st April 1939.

I am directed to say that it has been represented to the Central Board of Revenue that in the case of privilege leave pay advances drawn before 1st April 1939 by officers in India prior to their departure on leave ex-India no tax should be levied on the portion of the advance relating to the period up to the 31st March 1939. As the law now stands advances received in 1938-39 were salary when received and as the advances in question were received in India, they are not entitled to the benefit of the leave salary exemption which was in force before 1st April 1939. The Board, however, considers that the application of the law to these cases would entitle the officers to complain that they were allowed to draw the advances under a misapprehension and have accordingly decided that all such advances which were adjusted ex-India before 1st April 1939 should be exempted

from ...

from Income-tax.

I have the honour to be,

Sir,

Your most obedient servant,

1-8-39

First Secretary, Central Board of Revenue.

Copy forwarded to all Appellate Assistant Commissioners and the Income-tax Adviser to the Central Board of Revenue.

Copy also forwarded to the Military Accountant General, for information.

FD. / J. 7DY 8/8/39

S.N. 130

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 9 AUG. 1939 Diary No. 8224 File No.

NS 7/8

C.No. 351-I.T./37.

CENTRAL BOARD OF REVENUE

RD 31/39

Simla, the 28th July 1939.

A copy of the undermentioned paper is forwarded to all Commissioners of Income-tax in continuation of Board's letter C.No. 351-I.T./37, dated the 15th March 1939, for information. (with reference to his letter No. 287-3/39, dated the 16th May 1939.)

S.N. 29 C.P. 52 (D)

( ) To C.I.T. C. & U.P. only.

By order, etc.,

K. B. A.L. 3-8-39

for First Secretary, Central Board of Revenue.

Not to C.I.T. C. & U.P.

1. Letter No. 287-3/39, dated 16th May 1939, from the Commissioner of Income-tax, Central and United Provinces.

2. Letter No. 690-O/D.4., dated the 13th July 1939 from the Defence Department.

K.U.S. 2/8.

Copy of letter No. 287-3/39, dated the 16th May 1939, from the Commissioner of Income-tax, Central and United Provinces, to the Secretary, Central Board of Revenue, Simla.

Income-tax Enquiry Report - 1936 -
Chapter I, section 6(c) - Taxation of leave salaries paid outside British India - Your letter C.No. 351- I.T./37, dated the 15th March 1939.

With reference to your letter quoted above, I have the honour to say that the necessary instructions have issued to all local authorities in these provinces except Cantonments which are presumably "local authorities" within the definition of that expression given in the General Clauses Act. At present this office has no information as regards the various Cantonment authorities in the United and Central provinces but it is understood that some of them employ in their service persons who are not technically Government servants.

It is, therefore, suggested that, as the matter is one which concerns Cantonment authorities all over India, the most satisfactory way of bringing the question to the notice of Cantonment authorities would be for the Board to do so through the Government of India in the Defence Department. Otherwise each Commissioner will have to enter into correspondence with the Military authorities in his own province which hardly seems necessary.

No. 690-O/D.4.

Government of India
D E F E N C E D E P A R T M E N T

Simla, the 13th July 1939.

To

The General Officer Commanding-in-Chief, Northern Command.

The General Officer Commanding-in-Chief, Eastern Command.

The General Officer Commanding-in-Chief, Southern Command.

The Commander, Western (Independent) District.

Taxation of leave salaries paid outside British India.

Sir,

I am directed to forward a copy of the Central Board of Revenue letter No. 351-I.T./37, dated the 15th March 1939, addressed to all Commissioners of Income-tax, and to say that the orders contained therein apply to Cantonment Fund Servants also. I am to request that the Cantonment Boards in your jurisdiction may be informed accordingly.

I am, Sir,
Your most obedient servant,
Sd/- G.F. Paterson,
Colonel,
Director, Military Lands and Cantonments.

5 Drafts / Dockets S.N.131

Issued 17/8/39.

DEPARTMENT. File No.

BRANCH. Serial No.

Draft Letter / ~~Memorandum~~ / ~~Telegram~~ R.Dis.

Class for telegrams	INLAND: Immediate / Important / Express / Ordinary	FOREIGN: Immediate / Important / Ordinary / Without priority

No. F.31-39 Judl. Dated 17th August 1939

From

The Commissioner of Income-tax,
Civil and Military Station,
Bangalore.

To

The Secretary,
Central Board of Revenue,
S i m l a.

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case or Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(~~Code word for telegrams.~~)

S.N.14
c.p.22

'D'

Form I.T.48- Disbursing Officers- Distribution of, to- Arrangement regarding.

Sir,

I have the honour to refer to your endorsement ~~No~~ D.Dis.No.586-I.T./38, dated the 24th January 1939. No difficulty was experienced in arranging for the distribution of ~~the~~ form I.T.48 during the year 1938-39.

I have, etc.,

12-8

for Commissioner of Income-tax

11-8-39

AsRao
11.8.39

3. 5.
J&PC—S5—1595(S&P)IF.2—(M 944)—6-3-39—60,000 Pads.

S N.132

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 17th August *1939*.

R.Dis. No. F.31-39 Judl.

A copy of the undermentioned paper(s) is forwarded to the **Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore,**

for information, ~~in continuation of with reference to~~ the ~~correspondence ending with (his)~~

~~Memorandum~~
~~letter~~ from
~~endorsement~~

~~No. , dated the~~

By order, etc.,

for Secretary to the Resident in Mysore.
~~Asstt. Secy.~~ and Commissioner of Income-tax.

List of papers.

S.N.125 P.U.C — 1. Endorsement from the Central Board of Revenue D.Dis.No. 269-Admn.(I.T.)/39 dated the 24th July 1939, with enclosure.

S.N.126 P.U.C. — 2. Letter from the Central Board of Revenue, C.No.46(16)-I.T./39 dated the 21st July 1939.

S.N.129 P.U.C. — 3. Letter from the Central Board of Revenue D.A.Dis.No.42(5)-I.T./39 dated the 25th July 1939.

(Spare ~~xxxx~~ copies except of S.N.126 kept below.)

11-8-39.

11.8.39

S.N. 128

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 17th August *1939*.

Issued
17/8/39.

Issued
12/8

R.Dis. No. F.31-39/Judl.

A copy of the undermentioned paper(~~s~~) is forwarded to the

Collector and District Magistrate,
Residency Surgeon,
Commissioner of Police,
Inspector of Schools,
District and Sessions Judge, Registrar of Assurances and Registrar of Firms and Joint Stock Companies,
Officer in charge of the Hon'ble the Resident's Treasury,
President, Municipal Commission,
Manager, Residency Press,

Civil and Military Station, Bangalore, for information and guidance,

~~for information,~~ in continuation of / ~~with reference to~~ ~~the correspondence ending with (his)~~

~~Memorandum~~ / ~~letter~~ / endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 11th August 1939.

S.N.121

~~, dated the~~

By order, etc.,

12/8

~~Secretary~~ / Asst. Secy. to the Resident in Mysore.

List of papers.

Encl. to S.N.128 P.U.C. Circular letter from the Central Board of Revenue to Accounts and Audit Officer C.No.35(3)-I.T./39 dated the 29th June 1939 with enclosures.

(Spare copies kept below.)

11-8-39.

11.8.39

5 Drafts/Drafts

S.N.134.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 17th August *1939.*

Issued 12/8

R.Dis. No. F.31-39 Judl.

Issued 17/8/39.

A copy of the undermentioned paper(s) is forwarded to the **Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore,**

for information, ~~in continuation of~~ / ~~with reference to~~ ~~the correspondence ending with (his)~~ ~~Memorandum~~ / ~~letter~~ / endorsement from **this Residency**

in continuation of

S.N.30
c.p.53
'D'

R.Dis. No. F.31/39 Judl., dated the **17th April 1939.**

By order, etc.,

12.8

for Secretary ~~Asstx.Secy.~~ to the Resident in Mysore.
and Commissioner of Income-tax.

List of papers.

Encl. to S.N.130 P.U.C. 1. Letter No.287-3/39, dated the 16th May 1939, from the the Commissioner of Income-tax, Central and United Provinces to the Cantral Board of Revenue.

Encl. to S.N.130 P.U.C. 2. Letter No.690-O/D.4, dated the 13th July 1939 from the Government of India, Defence Department, to the General Officer-in-Chief, Northern Command, etc.

(Spare copies kept below.)

11.8.39.

AsRa.
11.8.39

S. N. 135

5 Dfts
Draft III
Issued 19/8/39 16/8

DEPARTMENT.

BRANCH.

File No.

Serial No.

Draft Letter / Memorandum / Telegram

Class for telegrams: INLAND: Immediate / Important / Express / Ordinary — FOREIGN: Immediate / Important / Ordinary / Without priority

No. R.Dis. F.31-39 Judl. Dated 19th August 1939

From

The Commissioner of Income-tax,
Civil and Military Station,
Bangalore.

To

The Postmaster,

Bangalore.

To be issued on	Issued on
1st Reminder	
2nd Reminder	
3rd Reminder	
Heading:	
Case or Diary No.	
If post copy of telegram required	
Date of despatch of above	
List of enclosures	

(Code word for telegrams.)

S.N.127
P.U.C.

Indian Income-tax Rules 1922- Amendment of - Rule 12- Interest on securities-Tax deducted at source-Supply of particulars to the Income-tax Officers.

- - -

Sir,

I have the honour to refer to letter from the Central Board of Revenue to the Accountant General, Posts and Telegraphs, C.No.46-(11)-I.T./39 dated the 20th July 1939. The list referred to in the 3rd paragraph of the Board's letter, in respect of persons living in the Civil and Military Station of Bangalor may kindly be sent to the Income-tax Officer, Civil and Military Station, Bangalore.

I have, etc.,

16.8.

for Commissioner of Income-tax

Copy forwarded to the Secretary, Central Board of Revenue, for information.

S. 5.
IGIPC—S5—1595(S&P)IIF2—(M 944)—6-3-39—60,000 Pads.

S.N.127
P.U.C
(Spare copy kept below.)

information.

Copy with copy of Board's letter forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and communication to the Income-tax Officer. The Income-tax Officer's attention may be drawn to the Board's instructions in their endorsement on the letter referred to above.

11.8.39.

11.8.39

18/8/39.

54

Circular No. 20 of 1939.

D.Dis. No. 28(9)- I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 13th July 1939.

....

CIRCULAR.

Assessments - 1939-40 - Relief in respect of life insurance premia and provident fund contributions - Revised instructions regarding.

....

In all assessments for the year 1939-40, the relief in respect of insurance premia and provident fund contributions should be computed on the new basis laid down in Section 15 as amended by the Indian Income-tax (Amendment) Act, 1939, i.e. the limit of Rs. 6,000, or Rs. 12,000, as the case may be, imposed under section 15 of the amended Act, should be applied. This point is of practical importance in all cases in which tax has been deducted at source from salaries and relief given in respect of life insurance premia on the old basis and the new limits have been exceeded. Assessment is necessary in such cases to recover the extra tax due. Income-tax Officers should, therefore, be asked to take necessary action in all cases affected. The above instructions supersede those contained in the last sentence of paragraph 1 of Board's Circular No.5 of 1939 (D.Dis.No.28(9)-I.T./39.)

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay. A copy of the circular should be supplied to all Income-tax Officers.

The Income-tax Adviser to the Board.

R.17/7.

CIRCULAR No. 17 OF 1939.

D.Dis.No.51(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Non-residents - Interest paid to, in 1938-39 by a resident assessee - Indian Income-tax Act, 1922 - Section 10(2)(iii) proviso - Whether allowable deduction under.

In its Circular No. 4 of 1939 dated the 11th April 1939 the Board has already issued instructions that the provisions of the Amending Act apply to all assessments for 1939-40 (on the income of 1938-39) and subsequent years. The question has been raised whether, where a resident has not deducted income-tax in the year ending 31st March 1939 from interest paid to a non-resident during that year as required by new section 18(3A), such interest should be disallowed in his assessment for 1939-40 under the proviso to section 10(2)(iii). In view of the facts that these new provisions imposing liability upon the resident for the deduction of tax at source from such interest came into force only on 1st April 1939 and that until the Legislature had actually amended the Act no non-resident would have agreed to the deduction of such tax, the Board has decided that interest paid without British India before 1st April 1939 from which tax was not deducted should not be disallowed in the payer's assessment by reason of

the non-deduction of tax.

17 6 37.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax including the Commissioner of Income-tax, (Central), Bombay.

All Appellate Assistant Commissioners.

All Chambers of Commerce.

The Income-tax Adviser to the Board.

By order, etc.,

17.6.37

First Secretary, Central Board of Revenue.

M.16.6.

CIRCULAR NO. 18 OF 1939

C.No.46(15)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 28th June 1939.

C I R C U L A R

Forms - Income-tax - Use of old forms - Proceedings under section 34 - After the coming into force of the Indian Income-tax (Amendment) Act.

Penalties - Enhanced rate of - Applicability - Appeals - Rights to - Assessments under section 23(4).

The Board is advised that proceedings under section 34 for the year 1938-39 should after the 1st day of April 1939 be initiated by the issue of the old forms I.T.8 or I.T.11, as the case may be. The Board is therefore issuing a rule under section 59 formally notifying these two forms as the prescribed forms for returning the total income in respect of any income profits or gains liable to be assessed in any year ending before the 1st April 1939. As this will have legal effect only from the date on which the rule is finally promulgated Income-tax Officers should be instructed to take steps to legalise proceedings already started on or after 1st April 1939 under section 34 by serving fresh statutory notices along with the old form I.T. 90.

2. In regard to pending assessments for the years

1938 ...

1938-39 and earlier years, the Board is advised that the appropriate forms to be used for notices under sections 22(4) and 23(2) are the revised forms I.T.13 and I.T.86 communicated with the Board's letters Nos. C.28(21)-I.T./39 dated 29th April 1939 and C.28(22)-I.T./39 dated 28th April 1939 irrespective of the question whether the proceedings, in relation to which they were issued, were commenced before or after the 1st April 1939. Failure to comply with any of the terms of these notices will be an act or omission committed after the Amendment Act has come into force and will, therefore, attract the penalties prescribed by sub-section (1) of section 28.

3. But in regard to penalties for concealment of income or for furnishing inaccurate particulars of such income in proceedings under section 34 for years prior to 1939-40 of such income, the enhanced penalty provided in the new section 28 would apply only in respect of returns filed on or after 1st April 1939. Where a return had been filed before that date the penalty for concealment should not exceed that provided by the section as it stood before the amendment.

4. In the case of assessments under sub-section (4) of section 23, which were completed before 1st April 1939, the assessee has no right of appeal. But if an assessment under this sub-section is made for any year earlier than 1939-40 on or after the 1st April 1939, the assessee has, under sub-section (1) of section 30 as amended, a right of appeal.

5. In all cases where the assessment is completed on

or ...

or after 1st April 1939, the new assessment form (I.T.15) communicated with the Board's letter No. C.28(19)-I.T./39, dated the 4th May 1939 should be used.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,

All Appellate Assistant Commissioners,

The Income-tax Adviser to the Central Board of Revenue.

C.B.S.
30/6.

CIRCULAR No. 16 OF 1939.

D.Dis.No.51(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Life Insurance business - Interest from tax-free securities - Deduction of, from annual average surplus - Instructions regarding -.

In the case of life insurance companies taxed on the actuarial surplus basis Income-tax Officers have been holding in some provinces that part of the interest from tax-free securities is paid out in expenses and that only a part of it finds its way into the taxable surplus. The Calcutta High Court in the case of North-British Mercantile Company Limited and the Bombay High Court in the case of the Manufacturers' Life Insurance Company Limited have held that the entire income derived from tax free securities should be excluded from the actuarial surplus of these companies. The Board has decided to accept the decisions in these cases but where an insurance company's actuary has certified that only a proportion of the tax free interest has entered into the surplus the assessment should be made accordingly.

17.6.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, including the Commissioner of Income-tax, Central, Bombay.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

By order, etc.,

17.6.39.

First Secretary, Central Board of Revenue.

M.16.6.

CIRCULAR No. 16 OF 1939.

D.Dis.No.61(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Life Insurance business - Interest from tax-free securities - Deduction of, from annual average surplus - Instructions regarding -

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In the case of life insurance companies taxed on the actuarial surplus basis Income-tax Officers have been holding in some provinces that part of the interest from tax-free securities is paid out in expenses and that only a part of it finds its way into the taxable surplus. The Calcutta High Court in the case of North-British Mercantile Company Limited and the Bombay High Court in the case of the Manufacturers' Life Insurance Company Limited have held that the entire income derived from tax free securities should be excluded from the actuarial surplus of these companies. The Board has decided to accept the decisions in these cases but where an insurance company's actuary has certified that only a proportion of the tax free interest has entered into the surplus the assessment should be made accordingly.

17.6.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, including the Commissioner of Income-tax, Central, Bombay.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

By order, etc.,

17.6.39.

First Secretary, Central Board of Revenue.

M.16.6.

CIRCULAR No. 16 OF 1939.

D.Dis.No.51(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Life Insurance business - Interest from tax-free securities - Deduction of, from annual average surplus - Instructions regarding -.

In the case of life insurance companies taxed on the actuarial surplus basis Income-tax Officers have been holding in some provinces that part of the interest from tax-free securities is paid out in expenses and that only a part of it finds its way into the taxable surplus. The Calcutta High Court in the case of North-British Mercantile Company Limited and the Bombay High Court in the case of the Manufacturers' Life Insurance Company Limited have held that the entire income derived from tax free securities should be excluded from the actuarial surplus of these companies. The Board has decided to accept the decisions in these cases but where an insurance company's actuary has certified that only a proportion of the tax free interest has entered into the surplus the assessment should be made accordingly.

17.6.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, including the Commissioner of Income-tax, Central, Bombay.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

By order, etc.,

17.6.39.

First Secretary, Central Board of Revenue.

M.16.6.

CIRCULAR No. 16 OF 1939.

D.Dis.No.51(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th June 1939.

CIRCULAR.

Life Insurance business - Interest from tax-free securities - Deduction of, from annual average surplus - Instructions regarding -.

In the case of life insurance companies taxed on the actuarial surplus basis Income-tax Officers have been holding in some provinces that part of the interest from tax-free securities is paid out in expenses and that only a part of it finds its way into the taxable surplus. The Calcutta High Court in the case of North-British Mercantile Company Limited and the Bombay High Court in the case of the Manufacturers' Life Insurance Company Limited have held that the entire income derived from tax free securities should be excluded from the actuarial surplus of these companies. The Board has decided to accept the decisions in these cases but where an insurance company's actuary has certified that only a proportion of the tax free interest has entered into the surplus the assessment should be made accordingly.

17.6.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, including the Commissioner of Income-tax, Central, Bombay.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

By order, etc.,

17.6.39.

First Secretary, Central Board of Revenue.

M.16.6.

Circular No. 14 of 1939.

R.Dis.No.31(12)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 12th June 1939.

CIRCULAR.

Burma and Aden - Residence in, before separation - Sections 4-A and 4-B - Residence in British India - To be treated for purposes of -.

The question has been raised whether residence in Burma and Aden before separation constitutes for the purpose of sections 4-A and 4-B of the Indian Income-tax Act as amended, residence in British India. The Government of India hold that the answer is in the affirmative.

Dorman

First Secretary, Central Board of Revenue

To

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
Income-tax Adviser to the Board.

R.12/6.

Circular No. 11 of 1939.

R.Dis.No. 26(15)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 5th June 1939.

C I R C U L A R

Indian Income-tax Act, 1922 - Sections 42 and 43 - Hedging and straddle transactions - Profits from - Liability to tax.

The recent amendments of sections 42 and 43 of the Indian Income-tax Act, 1922, have not altered the liability to taxation of profits made by non-residents from hedging and straddle transactions. The new proviso to section 43 however prevents an Income-tax Officer from appointing as an agent in respect of such transactions a resident broker who deals with or through a non-resident broker who is carrying on such transaction in the ordinary course of his business and not as a principal. Where the resident broker is dealing directly with a non-resident principal he may be treated as an agent but in assessing the profits arising from such transactions the following instructions should be followed :-

(a) In calculating the amount of profits from these transactions assessable under section 42, any loss incurred elsewhere in the course of the transactions as a whole should be set off, and

(b) in any case where the broker satisfies the Income-tax Officer that he has reason to believe that the hedging and straddle transactions as a whole have not resulted in a profit the broker on

application should be given a certificate that no tax need be retained by him. In that case the third proviso to section 42(1) will protect him.

12.6.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax, (including the Commissioner of Income-tax (Central) Bombay.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

12.6.39

First Secretary, Central Board of Revenue.

Circular No. 12 of 1939.

R.Dis.No.589-I.T./38.
CENTRAL BOARD OF REVENUE.
Simla, the 7th June 1939.

....

CIRCULAR.

Indian Income-tax Act, 1922 - Section 61 - Assessees - Appearance by authorised representative - Power of Attorney.

.....

The person, authorised by an assessee in writing to attend, on his behalf, before any Income-tax authority in connection with any proceedings under the Indian Income-tax Act becomes the agent of the assessee for the purposes of those proceedings. Statements made and explanations given by the person so authorised attending on behalf of an assessee in the course of assessment proceedings are clearly binding on the assessee, even if the instrument authorising such person to attend does not expressly say so. There is no substantial difference between a Vakalatnama or Mukhtarnama and the authorisation envisaged in section 61, and that being so, if the authorisation happens to be in favour of a lawyer it would be a Vakalatnama and chargeable as such with court-fees under Article 10 of Schedule II of the Court Fees Act, 1870, and would, therefore, be excluded from the definition of a power of attorney by virtue of the words included within brackets in that definition. If it is in favour of any person other than a lawyer it would fall within that definition and would as such be chargeable with appropriate stamp duty.

2....

2. The above instructions supersede those contained in paragraph 142(iii), page 324, of the Income-tax Manual (7th Edition). It should be noted that they apply to persons authorized to act for the assessee. They are not to be read as preventing an Income-tax Officer from allowing a representative to appear without acting for the assessee e.g. to produce documents, to produce or explain accounts etc.

First Secretary, Central Board of Revenue

To

All Commissioners of Income-tax including the Commissioner of Income-tax (Central), Bombay.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Central Board of Revenue.

All Chambers of Commerce.

R.9/6.

CIRCULAR NO. 9 OF 1939.

C.No.41(3)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 25th May 1939.

CIRCULAR.

Indian Income-tax Act, 1922, as recently amended - Sections 14 and 16(2) - Dividends - Assessment of and inclusion in total income.

Prior to the recent amendment of section 14 of the Indian Income-tax Act dividends received by a shareholder in a company where the profits or gains of the company had been assessed to income-tax were exempt from income-tax in the shareholder's hands. In the Hungerford Investment Trust case (1936 I.T.R. 270) the Privy Council held that this exemption applied to the whole of a dividend even when it was partly paid from profits not assessed to income-tax.

2. This exemption has now been deleted from section 14 and in future a dividend is to be treated in the same way as salaries and income from securities from which tax has been deducted at source. But when only part of the company's profits have been taxed, the income-tax to be added in grossing the dividend is to be calculated on the proportion of taxed income to total income of the company /Section 16(2) proviso/.

3. These amendments have rendered obsolete the decision in the Hungerford Investment Trust

case.....

case but they have not altered the position in regard to dividends paid from tax-free securities, from agricultural or other exempt income, and from capital. Dividends from these sources remain exempt on the principle that a dividend is merely the shareholder's share in the income of the company and therefore if the income is exempt the share is exempt. (Section 49B gives effect to this principle in the case of taxed income).

4. The following example will make the matter clear:-

Company's profits, Rs. 5,00,000 consisting of -

Rs. 2,00,000	40%	business profits
Rs. 1,00,000	20%	foreign profits not taxable
Rs. 1,00,000	20%	agricultural income
Rs. 50,000	10%	capital profits
Rs. 50,000	10%	income from tax-free securities.

If a shareholder receives a dividend of Rs. 1,000 from these profits, it will be considered to be made up as follows:-

Rs. 400	business profits taxed
Rs. 200	foreign profits not taxed
Rs. 200	agricultural income exempt
Rs. 100	capital profits exempt
Rs. 100	income from tax-free securities.

In his assessment the shareholder will be credited [section 16(2) proviso and section 18(5)] with the tax on Rs. 400. If being a resident he receives the dividend in British India or brings it into British India, he will be taxed on Rs. 200, the

portion.....

portion representing foreign profits. If he is ordinarily resident in British India but does not receive the dividend in British India or bring it into this country, this Rs.200 will be included in his unremitted foreign income and will be taxable to the extent that the total unremitted foreign income exceeds Rs. 4,500. The portions representing agricultural income - Rs.200 - and capital profit - Rs. 100 - will be exempt and will not be included in total income. The portion representing income from tax-free securities - Rs. 100 - will not be subject to income-tax but will be included in total income [section 16(1)(a)] and will be subject to super-tax.

5. Although, strictly speaking, where profits of more than one year are available for distribution, it is not possible to say that a dividend is paid out of a particular portion of profits, it has to be assumed, in order to make section 16(2) and the above instructions workable, that the dividend is paid out of current profits, i.e., the profits of the company's accounting year in respect of which the dividend is declared. If a company whose accounting year is the calendar year pays an interim dividend for 1939 in October 1939 and a final dividend in April 1940, the interim dividend will be included in the 1940-41 assessment of an assessee whose 'previous year' is the financial year and will be grossed up at the company rate for the year 1939-40, whilst the final dividend will be included in the 1941-42 assessment

and.....

and be grossed up at the company rate for the year 1940-41, so that if the Finance Act of 1940 altered the company rate, the final dividend would be grossed up at a different rate from the interim dividend. But both dividends are to be held to have been paid out of the company's profits of the year 1939 and it is the proportion of taxable to total profits of that year which will form the basis of the calculation of the amount of income-tax to be grossed up under the proviso to section 16(2).

If the assessment of the company's profits of 1939 (assessment of 1940-41) has not been completed when the shareholder's assessment for 1940-41 is being made, or if there is a loss in 1939, the proportions of the year before, i.e. 1938, should be adopted.

6. The instructions in Circular No. 4 of 1937 R.Dis.No.139-I.T./37 dated the 26th May 1937, with regard to cases in which the exempt portion of the dividend is less than 5% are unaffected by these instructions.

31.5.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay).

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

By order, etc.,

31.5.39

First Secretary, Central Board of Revenue.

M.29.5.

Copy of a letter No.C.No.35(3)-I.T./39, dated New Delhi, the 3rd April 1939, from the Deputy Secretary to the Government of India, Finance Department (Central Revenues), to All Provincial Governments and Administrations.

Income-tax - Deduction of, from salary etc. - Memorandum of instructions for.

I am directed to forward 5 copies of a Memorandum of Instructions for deduction of Income-tax and Super-tax every month from salary etc., and to request that the instructions contained therein may be brought to the notice of all disbursing officers.

Copy of a letter No.C.No.33(3)-I.T./37, dated New Delhi, the 3rd April 1937, from the Deputy Secretary to the Government of India, Finance Department (Central Revenues), to All Provincial Governments and Administrations.

Income-tax - Deduction of from salary etc. - Memorandum of instructions for.

I am directed to forward 5 copies of a Memorandum of instructions for deduction of Income-tax and Super-tax from salary etc., and to request that the contents thereof may be brought to the notice of all disbursing officers.

MEMORANDUM OF INSTRUCTIONS FOR THE DEDUCTION OF INCOME-TAX AND SUPER-TAX EVERY MONTH FROM SALARIES, ETC.

1. **Important changes in the Income-tax law.**—The attention of all persons responsible for paying any income chargeable under the head " salaries " is invited to the changes introduced by the Indian Income-tax (Amendment) Act, 1939, to sections 4, 7, 10 and 18 of the Indian Income-tax Act, 1922, and to the withdrawal of the exemption from tax on leave salaries and leave allowances paid in the United Kingdom or in any Colony.

2. **Basis of charge.**—Previously the basis of assessment in respect of any amount chargeable under " salaries " was the actual amount paid, *but this has now been changed and the present basis is the salary paid to a person or due to him, whether paid or not.* An advance by way of loan or otherwise of income chargeable under the head " salaries " is deemed to be salary *due* on the date when the advance is received.

3. **Super-tax also to be deducted by employer.**—The responsibility for deducting tax at the time of payment of salary has been extended to cover super-tax as well as income-tax.

4. **Rates of tax for persons resident in British India.**—In the case of an employee, who is resident in British India, income-tax and super-tax must be deducted at a rate representing the average of the rates applicable to his estimated total income under the head " salaries ". *Special attention is drawn to the fact that the system of rates for income-tax has been changed and now follows that which has always been in force for super-tax.* The rates of income-tax for the year commencing on 1st April 1939 (which are applicable to all deductions to be made on or after that date) are (except for companies and for cases to which the maximum rate of tax applies)—

Rs.	Rate.
First 1,500 of total income	Nil.
Next 3,500 of total income	9 pies in the rupee.
Next 5,000 of total income	1 anna 3 pies in the rupee.
Next 5,000 of total income	2 annas in the rupee.
Balance of total income	2 annas 6 pies in the rupee.

No tax is payable on incomes not exceeding Rs. 2,000 ; and tax payable on all incomes of Rs. 2,000 or more is to be restricted to half of the excess of the income over Rs. 2,000.

The rates of super-tax are (except for companies)—

Rs.	Rate.
First 25,000 of total income	Nil.
Next 10,000 of total income	1 anna in the rupee.
Next 20,000 of total income	2 annas in the rupee.
Next 70,000 of total income	3 annas in the rupee.
Next 75,000 of total income	4 annas in the rupee.
Next 1,50,000 of total income	5 annas in the rupee.
Next 1,50,000 of total income	6 annas in the rupee.
Balance of total income	7 annas in the rupee.

N. B.—For examples showing the manner in which the tax deductible is computed see paragraph 14.

5. **Non-resident employees.**—In the case of an employee, who is not resident in British India, income-tax should be deducted at the time of payment at the maximum rate and super-tax at the rate or rates applicable to his estimated income under " salaries ".

6. **Salaries (and leave salary) paid abroad but earned in British India.**—The salary (including leave pay but excluding pension payable outside India) of an employee whether resident or non-resident, is deemed to accrue

or arise in British India, wherever paid, if it is earned in British India ; also where " salary " earned in British India is payable outside British India no allowance in respect of that payment will be made in computing the income of the employer, unless tax has been paid thereon or deducted therefrom under section 18.

7. **Withdrawal of exemption of leave salary paid abroad.**—*The notifications under sub-section (1) of section 60 of the Indian Income-tax Act, exempting from tax leave salaries and leave allowances paid in the United Kingdom or in any Colony to Judges of the High Court, Chief Courts, etc., officers of Government and of local authorities to employees of companies and of private employers*, have now been rescinded. Instructions in regard to the consequential arrangements to be made for deducting tax on such leave salaries and leave allowances in the case of Government servants are being issued. Other employers are required to deduct tax in accordance with paragraphs 4, 5 and 6 above.

8. **Failure to deduct tax or to pay over the tax deducted.**—Any person responsible for paying " salaries " who does not deduct tax or after deducting fails to pay the tax as required will without prejudice to any other consequences which he may incur, be deemed to be in default personally in respect of the tax.

9. **Items included under " salaries ".**—The following payments should be included under the head " salaries " for the purpose of deducting tax at source :—

(*i*) House rent allowance ;

(*Note.*—The value of rent-free quarters is also taxable under section 7. Though the employer may not be legally bound to deduct tax from it, it will usually be more convenient to include this amount in the amount upon which the tax to be deducted from salary is computed and arrangements may be made accordingly.)

(*ii*) Any bonus, gratuity, fees, commission, perquisites or other allowance or profit in lieu of or in addition to salary ;

(*iii*) Income-tax paid by the employer on behalf of the employees in respect of the salary ;

(*iv*) Payments due to or received by an employee in connection with the termination of his employment consisting of employer's contribution and interest, unless the payment is made solely as compensation for the loss of employment and not by way of remuneration for past services. This does not, however, apply to—

(*a*) any payment from a provident fund to which the Provident Funds Act, 1925, applies ;

(*b*) any payment from a recognised provident fund under Chapter IXA, if such payment is exempted from payment of income-tax under that chapter ;

(*c*) any payment from an approved superannuation fund under Chapter IXB made on the death of a beneficiary or in lieu of, or in commutation of an annuity, or by way of refund of contributions on the death of a beneficiary or on his leaving the employment in connection with which the fund is established.

10. **Life insurance premiums, provident fund and other contributions.**—Rebate of income-tax (but not super-tax) calculated at a rate representing the average of the rates of income-tax applicable to the total income of the employee is admissible in respect of the following deductions, contributions and premiums, subject to the condition that the aggregate of the total sums exempted shall not exceed in the case of an individual 1/6th of the total income or Rs. 6,000 (Rs. 12,000 in the case of a Hindu Undivided Family), whichever is less :—

(*a*) sums deducted from a Government servant's salary in accordance with the conditions of his service for the purpose of securing a deferred annuity to him or making provision for his wife or children ;

(*b*) contributions to a recognised provident fund subject to the provisions of Chapter IXA ;

(*c*) contributions to a recognised superannuation fund subject to the provisions of Chapter IXB ;

(*d*) sums paid by the employee to effect an insurance on his life or on that of his wife or in respect of a contract for a deferred annuity on his life or on that of his wife. Before any rebate is given in respect of any of these sums, the employer should satisfy himself that it is properly due and, if in doubt, should communicate with the Income-tax Officer. (See note on the examples below.)

11. **Employees' expenses.**—Tax is not payable in respect of any sum which the employee, by the conditions of his employment, is required to spend out of his remuneration wholly, necessarily and exclusively in the performance of his duty. The cost of travelling from a person's residence to his place of employment is not admissible. Except where the Income-tax Officer has agreed the amount to be allowed, income-tax and super-tax should be deducted on the gross income before deducting such expenses paid by the employee, who may claim the allowance either by adjustment of a later deduction or by refund at the end of the year when he is making his return of income.

12. **Fractions.**—In calculating the amount of tax payable the amount due on a fraction of a rupee of income should be neglected and in determining the amount of tax payable, fractions of an anna less than six pies should be disregarded and fractions of an anna equal to or exceeding six pies should be regarded as one anna.

13. **Excess or deficient deductions.**—Any excess or deficiency arising out of any previous deduction of tax from the salary of a particular person can be adjusted at the time of any subsequent deduction of tax with reference to the salary paid to the same person. Such adjustments should not, however, be made from payments on or after 1st April in any year in respect of an excessive or deficient deduction prior to that date.

14. **Ready Reckoner and calculation of tax.**—A ready reckoner for the purpose of calculating the average rate chargeable on all incomes between Rs. 2,000 and Rs. 25,000 is available for sale at all authorised Government book-sellers. Examples to show how the tax is to be deducted, and claims for insurance premiums, etc., should be calculated, are given below :—

Example 1.—Income Rs. 2,400 per annum. Life insurance premium Rs. 150 per annum.

Income-tax payable per annum—

Rs.	Rs. a. p.
1,500 at nil	Nil
900 at 9 pies	42 3 0
2,400	42 3 0

Average rate of tax = $\frac{42}{2,400}$ = 3·37 pies.

Life insurance relief Rs. 150 at 3·37 pies	2 10 0
Net yearly tax . .	39 9 0
Tax to be deducted from the monthly income of Rs. 200 is therefore	3 5 0

Example 2:—Monthly income—Rs. 3,500, Rs. 42,000 per annum.

Provident fund contribution . .	Rs. 5,000	Rs. 9,000. Restricted to 1/6th of salary and to Rs. 6,000 in the aggregate. (If the assessee were a Hindu Undivided Family the limit would be Rs. 12,000.)
Life insurance premium . .	Rs. 4,000	

Income-tax payable—

	Rs.	a.	p.
First Rs. 1,500 at nil	Nil		
Next Rs. 3,500 at 9 pies	164	1	0
Next Rs. 5,000 at 1 anna 3 pies	390	10	0
Next Rs. 5,000 at 2 annas	625	0	0
Next Rs. 27,000 at 2 annas 6 pies	4,218	12	0
Total Rs. 42,000	5,398	7	0

Average rate of income-tax $= \frac{5,398}{42,000} = 24{\cdot}68$ pies.

Provident fund and life insurance relief Rs. 6,000 at 24·68 pies	771	4	0
Net annual income-tax	4,627	3	0
Monthly deduction of income-tax $= \frac{4,627\text{-}3}{12}$	385	10	0

Super-tax payable—

	Rs.	a.	p.
First Rs. 25,000	Nil		
Next Rs. 10,000 at 1 anna	625	0	0
Next Rs. 7,000 at 2 annas	875	0	0
Total Rs. 42,000	1,500	0	0

(No deduction of super-tax is to be given in respect of Provident Fund contributions or life insurance premiums.)

Monthly super-tax payable $= \frac{1,500}{12}$ . . . . Rs. 125 0 0

	Rs.	a.	Rs.	a.
Monthly salary			3,500	0
Deduct—Income tax	385	10		
Super-tax	125	0		
			510	10
Net payment each month			2,989	6

Note.—In the case of life insurance policies which have been in existence during the whole of the preceding year, the person paying the salary should not insist on production of the premium receipts unless he has reason to believe that the policy has expired or been surrendered. A proportionate allowance should be given each month based on the total premiums expected to be paid within the year. Where a new policy has been taken out the first premium receipt should be called for and the allowance given in the next deduction of income-tax.

Example 3.—(*a*) Suppose a person's salary is Rs. 400 per mensem; his total salary during the accounting year 1938-39 will be Rs. 4,800. Suppose he drew an advance of pay in February 1939 of Rs. 400 and that he paid Life Insurance premium, etc., of Rs. 600. Tax at source on Rs. 4,800 at 6+6/12 pies per rupee or Rs. 150+12/8=Rs. 162-8-0.

In 1939-40 assessment.

His position would be as under :—

		Rs.
Salary		4,800
Advance		400
	Total	5,200
Less Life Insurance premium		600
Balance		4,600

Copy of a letter No.C.No.35(3)-I.T./39, dated Simla, the 22nd May 1939, from the Deputy Secretary to the Government of India, Finance Department (Central Revenues), to All Provincial Governments and Administrations.

Income-tax - Deduction of, from salary etc.- Memorandum of instructions for.

In continuation of my letter C.No.35(3)-I.T./39, dated the 3rd April 1939, on the above subject, I am directed to say that in the Note appended to Example 2 in paragraph 14 of the Memorandum forwarded therewith for the word 'payable' the words 'expected to be paid' should be substituted. I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

Enc (1).

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Dated Bangalore, the 12th May 1939.

Dear Sir,

The enclosed endorsement* from the Central Board of Revenue, D.A.Dis.No.61-G1.I/39, dated the 30th March 1939 appears to have been missent to your office in the first instance (vide your office seal on the paper). If the enclosure to this endorsement, viz., letter from the Federal Public Service Commission No.F.19/39-G1., dated the 21st March 1939 was also received there, kindly send it by bearer.

* Return requested.

Yours truly,

SUPERINTENDENT.

The Manager,
Office of the Commissioner of Income-tax in Mysore,
Bangalore.

Mr. N.S.V

No enclosure to the endorsement under reference was received in this office other than a spare copy of the endorsement as noted BJ in the Col. Encl.

13/5/39

Yours truly
Chinnaswamy
for Asst

Issued 12/5/39 B.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Dated Bangalore, the 12th May 1939.

Dear Sir,

The enclosed endorsement* from the Central Board of Revenue, D.A.Dis.No.61-G1.I/39, dated the 30th March 1939 appears to have been missent to your office in the first instance (vide your office seal on the paper). If the enclosure to this endorsement, viz., letter from the Federal Public Service Commission No.F.19/39-G1., dated the 21st March 1939 was also received there, kindly send it by bearer.

* Return requested.

Yours truly,

O/C

SUPERINTENDENT.

The Manager,

Office of the Commissioner of Income-tax in Mysore,

Bangalore.

BJ

D.A.Dis.No.61-Gl.I/39.

Central Board of Revenue.

New Delhi, the 30th March 1939.

...

A copy of the undermentioned paper is forwarded to all Heads of Departments subordinate to the Board.

By order, etc.,

6.4.39

for Second Secretary, Central Board of Revenue.

PAPER FORWARDED.

Letter from the Federal Public Service Commission No.F.19/39-Gl., dated the 21st March 1939.

SR.
5/4.

CIRCULAR NO. 9 OF 1939.

C.No.41(3)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 25th May 1939.

CIRCULAR.

Indian Income-tax Act, 1922, as recently amended - Sections 14 and 16(2) - Dividends - Assessment of and inclusion in total income.

Prior to the recent amendment of section 14 of the Indian Income-tax Act dividends received by a shareholder in a company where the profits or gains of the company had been assessed to income-tax were exempt from income-tax in the shareholder's hands. In the Hungerford Investment Trust case (1936 I.T.R. 270) the Privy Council held that this exemption applied to the whole of a dividend even when it was partly paid from profits not assessed to income-tax.

2. This exemption has now been deleted from section 14 and in future a dividend is to be treated in the same way as salaries and income from securities from which tax has been deducted at source. But when only part of the company's profits have been taxed, the income-tax to be added in grossing the dividend is to be calculated on the proportion of taxed income to total income of the company /section 16(2) proviso/.

3. These amendments have rendered obsolete the decision in the Hungerford Investment Trust

case.....

case but they have not altered the position in regard to dividends paid from tax-free securities, from agricultural or other exempt income, and from capital. Dividends from these sources remain exempt on the principle that a dividend is merely the shareholder's share in the income of the company and therefore if the income is exempt the share is exempt. (Section 49B gives effect to this principle in the case of taxed income).

4. The following example will make the matter clear:-

Company's profits, Rs. 5,00,000 consisting of -

Rs. 2,00,000	40%	business profits
Rs. 1,00,000	20%	foreign profits not taxable
Rs. 1,00,000	20%	agricultural income
Rs. 50,000	10%	capital profits
Rs. 50,000	10%	income from tax-free securities.

If a shareholder receives a dividend of Rs. 1,000 from these profits, it will be considered to be made up as follows:-

Rs. 400	business profits taxed
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Rs. 200	agricultural income exempt
Rs. 100	capital profits exempt
Rs. 100	income from tax-free securities.

In his assessment the shareholder will be credited [section 16(2) proviso and section 18(5)] with the tax on Rs. 400. If being a resident he receives the dividend in British India or brings it into British India, he will be taxed on Rs. 200, the

portion....

portion representing foreign profits. If he is ordinarily resident in British India but does not receive the dividend in British India or bring it into this country, this Rs.200 will be included in his unremitted foreign income and will be taxable to the extent that the total unremitted foreign income exceeds Rs. 4,500. The portions representing agricultural income - Rs.200 - and capital profit - Rs. 100 - will be exempt and will not be included in total income. The portion representing income from tax-free securities - Rs. 100 - will not be subject to income-tax but will be included in total income [section 16(1)(a)] and will be subject to super-tax.

5. Although, strictly speaking, where profits of more than one year are available for distribution, it is not possible to say that a dividend is paid out of a particular portion of profits, it has to be assumed, in order to make section 16(2) and the above instructions workable, that the dividend is paid out of current profits, i.e., the profits of the company's accounting year in respect of which the dividend is declared. If a company whose accounting year is the calendar year pays an interim dividend for 1939 in October 1939 and a final dividend in April 1940, the interim dividend will be included in the 1940-41 assessment of an assessee whose 'previous year' is the financial year and will be grossed up at the company rate for the year 1939-40, whilst the final dividend will be included in the 1941-42 assessment

and.....

and be grossed up at the company rate for the year 1940-41, so that if the Finance Act of 1940 altered the company rate, the final dividend would be grossed up at a different rate from the interim dividend. But both dividends are to be held to have been paid out of the company's profits of the year 1939 and it is the proportion of taxable to total profits of that year which will form the basis of the calculation of the amount of income-tax to be grossed up under the proviso to section 16(2).

If the assessment of the company's profits of 1939 (assessment of 1940-41) has not been completed when the shareholder's assessment for 1940-41 is being made, or if there is a loss in 1939, the proportions of the year before, i.e. 1938, should be adopted.

6. The instructions in Circular No. 4 of 1937 R.Dis.No.139-I.T./37 dated the 26th May 1937, with regard to cases in which the exempt portion of the dividend is less than 5% are unaffected by these instructions.

31.5.37

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay).

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

By order, etc.,

31.5.37

First Secretary, Central Board of Revenue.

M.29.5.

CIRCULAR NO. 9 OF 1939.

C.No.41(3)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 25th May 1939.

CIRCULAR.

Indian Income-tax Act, 1922, as recently amended - Sections 14 and 16(2) - Dividends - Assessment of and inclusion in total income.

Prior to the recent amendment of section 14 of the Indian Income-tax Act dividends received by a shareholder in a company where the profits or gains of the company had been assessed to income-tax were exempt from income-tax in the shareholder's hands. In the Hungerford Investment Trust case (1936 I.T.R. 270) the Privy Council held that this exemption applied to the whole of a dividend even when it was partly paid from profits not assessed to income-tax.

2. This exemption has now been deleted from section 14 and in future a dividend is to be treated in the same way as salaries and income from securities from which tax has been deducted at source. But when only part of the company's profits have been taxed, the income-tax to be added in grossing the dividend is to be calculated on the proportion of taxed income to total income of the company /Section 16(2) proviso/.

3. These amendments have rendered obsolete the decision in the Hungerford Investment Trust

case.....

case but they have not altered the position in regard to dividends paid from tax-free securities, from agricultural or other exempt income, and from capital. Dividends from these sources remain exempt on the principle that a dividend is merely the shareholder's share in the income of the company and therefore if the income is exempt the share is exempt. (Section 49B gives effect to this principle in the case of taxed income).

4. The following example will make the matter clear:-

Company's profits, Rs. 5,00,000 consisting of -

Rs. 2,00,000	40%	business profits
Rs. 1,00,000	20%	foreign profits not taxable
Rs. 1,00,000	20%	agricultural income
Rs. 50,000	10%	capital profits
Rs. 50,000	10%	income from tax-free securities.

If a shareholder receives a dividend of Rs. 1,000 from these profits, it will be considered to be made up as follows:-

Rs. 400	business profits taxed
Rs. 200	foreign profits not taxed
Rs. 200	agricultural income exempt
Rs. 100	capital profits exempt
Rs. 100	income from tax-free securities.

In his assessment the shareholder will be credited [section 16(2) proviso and section 18(5)] with the tax on Rs. 400. If being a resident he receives the dividend in British India or brings it into British India, he will be taxed on Rs. 200, the

portion,....

portion representing foreign profits. If he is ordinarily resident in British India but does not receive the dividend in British India or bring it into this country, this Rs.200 will be included in his unremitted foreign income and will be taxable to the extent that the total unremitted foreign income exceeds Rs. 4,500. The portions representing agricultural income - Rs.200 - and capital profit - Rs. 100 - will be exempt and will not be included in total income. The portion representing income from tax-free securities - Rs. 100 - will not be subject to income-tax but will be included in total income [section 16(1)(a)] and will be subject to super-tax.

5. Although, strictly speaking, where profits of more than one year are available for distribution, it is not possible to say that a dividend is paid out of a particular portion of profits, it has to be assumed, in order to make section 16(2) and the above instructions workable, that the dividend is paid out of current profits, i.e., the profits of the company's accounting year in respect of which the dividend is declared. If a company whose accounting year is the calendar year pays an interim dividend for 1939 in October 1939 and a final dividend in April 1940, the interim dividend will be included in the 1940-41 assessment of an assessee whose 'previous year' is the financial year and will be grossed up at the company rate for the year 1939-40, whilst the final dividend will be included in the 1941-42 assessment

and.....

and be grossed up at the company rate for the year 1940-41, so that if the Finance Act of 1940 altered the company rate, the final dividend would be grossed up at a different rate from the interim dividend. But both dividends are to be held to have been paid out of the company's profits of the year 1939 and it is the proportion of taxable to total profits of that year which will form the basis of the calculation of the amount of income-tax to be grossed up under the proviso to section 16(2).

If the assessment of the company's profits of 1939 (assessment of 1940-41) has not been completed when the shareholder's assessment for 1940-41 is being made, or if there is a loss in 1939, the proportions of the year before, i.e. 1938, should be adopted.

6. The instructions in Circular No. 4 of 1937 R.Dis.No.139-I.T./37 dated the 26th May 1937, with regard to cases in which the exempt portion of the dividend is less than 5% are unaffected by these instructions.

31.5.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay)

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

By order, etc.,

31.5.39

First Secretary, Central Board of Revenue.

M.29.5.

Circular No.8 of 1939.
D.Dis.No.562-I.T./38.
CENTRAL BOARD OF REVENUE.
Simla, the 10th May 1939.

...

CIRCULAR.

Assessment and Miscellaneous records - Registers - Retention for a longer period.

...

In view of the longer periods of limitation prescribed by certain sections of the Indian Income-tax Act, 1922, as amended by the Indian Income-tax (Amendment) Act, 1939, the Board has decided that the records and registers mentioned below should be retained for the periods noted against each -

	Period of retention.
1. Assessment record	20 years
2. Miscellaneous record	12 "
3. Appellate records	10 "
4. General Index Register	12 "
5. Register of Demand & Collection.	20 "
6. Register of Refunds	12 "
7. Salary Register	12 "
8. Counter foil of Refund vouchers.	12 "

The extended periods of retention will apply to records for 1939-40 and onwards. For convenience of handling, Miscellaneous record for 3 years only may be kept on the permanent file, the earlier records being kept separately.

Necessary correction to the Income-tax Office Manual will be included in the next correction list.

20 May

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax and the Income-tax Adviser to the Board.

SR.

Circular No.5 of 1939.

D.Dis.No.28(9)-I.T./39.

Central Board of Revenue.

New Delhi, the 12th April 1939.

...

CIRCULAR.

Instructions with regard to the work in connection with the annual returns of salaries etc., paid in the year ending 31st March 1939 :-

Under the Finance Act 1939 the rates of tax (both income-tax and supertax) chargeable for the year 1939-1940 on incomes from salaries or interest on securities are the rates of the year 1938-39, unless the income under the head 'salaries' or 'interest on securities' or from dividends is not more than half the total income of the assessee in which case the new rates laid down in the Finance Act 1939 are to be applied to the whole income including that part derived from sources other than interest on securities, salaries or dividends and assessment or refund is to be made accordingly. Relief in respect of insurance premia and provident fund contributions is to be computed on the old basis where the 1938-1939 rates of tax apply and on the new basis where the 1939-1940 rates apply.

2. Attention is also drawn to the fact that although the provisions referred to above will render the rates of tax of 1938-39 appropriate to most salary assessments for 1939-1940, the amended provisions of section 7 of the Incometax Act 1922 apply for 1939-40 to all cases and in

particular that the assessment for 1939-40 based on the income of 1938-39 is to include salary due but not drawn and any sum paid on the termination of employment (unless exempted under the amended Incometax Act).

3. The form of return under section 21 has been amended accordingly and attention is drawn to the changes made in the form.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including Commissioner of Income-tax (Central)). A copy of the circular should be supplied to all Income-tax Officers.

The Income-tax Adviser to the Board.

SR.
13/4.

Circular No.4 of 1939.
C.No.31(9)-I.T./39.
Central Board of Revenue.

New Delhi, the 11th April 1939.

C I R C U L A R.

Date upon which the various provisions of the Indian Income-tax (Amendment) Act, 1939, come into force.

Detailed notes (for the guidance of officers) on the various provisions of the Indian Income-tax (Amendment) Act, 1939, will be supplied in the course of the next three or four weeks, but in the meantime the attention of all officers should be drawn to the contents of this circular so that no invalid or improper action, whether in relation to pending proceedings, fresh proceedings under section 34, or proceedings for assessment for the year 1939/40, is taken.

Part I of the Amending Act, which contains all amendments other than those relating to and consequent upon the setting up of an Appellate Tribunal, has come into force on the 1st April 1939 subject to the proviso that the amendments to subclauses (vi) and (vii) of subsection (2) of section 10 of the 1922 Act are not to take effect earlier than the 1st April 1940. Part II is to come into force on such subsequent date, not being later than the 1st April 1941, as the Central Government may appoint, but it is not anticipated that it will come into force before the 1st April 1941.

Subject ..

Subject to the above, the provisions of Part I of the Amending Act, which relate to changes in the incidence of taxation and to the method of computing income, are effective in respect of all assessments made for the year 1939/40 (on the income of 1938/39) and for subsequent years. Those provisions of Part I of the Amending Act which make administrative changes (e.g., the appointment of Appellate and Inspecting Assistant Commissioners to perform separate functions) have come into force from the 1st of April 1939 for all purposes, including the completion of existing proceedings relating to assessments earlier than the assessments for the year 1939/40. It should be noted therefore that no person who has been appointed as an Inspecting Assistant Commissioner may on or after the 1st of April 1939 make any appellate order and that the new jurisdictions for Appellate Assistant Commissioners come into force as on that day for all the purposes of the Act, and that they should not on or after that date do anything which is inconsistent with their restricted functions under the amended Act. In any case of doubt the matter should be referred immediately to the Central Board of Revenue through the Commissioner.

Lahiri

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax
including Commissioner of Income-tax
(Central).

The Income-tax Adviser to the Board.

Circular No.5 of 1939.

D.Dis.No.28(9)-I.T./39.

Central Board of Revenue.

New Delhi, the 12th April 1939.

...

CIRCULAR.

Instructions with regard to the work in connection with the annual returns of salaries etc., paid in the year ending 31st March 1939 :-

Under the Finance Act 1939 the rates of tax (both income-tax and supertax) chargeable for the year 1939-1940 on incomes from salaries or interest on securities are the rates of the year 1938-39, unless the income under the head 'salaries' or 'interest on securities' or from dividends is not more than half the total income of the assessee in which case the new rates laid down in the Finance Act 1939 are to be applied to the whole income including that part derived from sources other than interest on securities, salaries or dividends and assessment or refund is to be made accordingly. Relief in respect of insurance premia and provident fund contributions is to be computed on the old basis where the 1938-1939 rates of tax apply and on the new basis where the 1939-1940 rates apply.

2. Attention is also drawn to the fact that although the provisions referred to above will render the rates of tax of 1938-39 appropriate to most salary assessments for 1939-1940, the amended provisions of section 7 of the Incometax Act 1922 apply for 1939-40 to all cases and in

particular that the assessment for 1939-40 based on the income of 1938-39 is to include salary due but not drawn and any sum paid on the termination of employment (unless exempted under the amended Incometax Act).

3. The form of return under section 21 has been amended accordingly and attention is drawn to the changes made in the form.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including Commissioner of Income-tax (Central)). A copy of the circular should be supplied to all Income-tax Officers.

The Income tax Adviser to the Board.

SR.
13/4.

Circular No.4 of 1939.
C.No.31(9)-I.T./39.
Central Board of Revenue.

New Delhi, the 11th April 1939.

C I R C U L A R.

Date upon which the various provisions of the Indian Income-tax (Amendment) Act, 1939, come into force.

...

Detailed notes (for the guidance of officers) on the various provisions of the Indian Income-tax (Amendment) Act, 1939, will be supplied in the course of the next three or four weeks, but in the meantime the attention of all officers should be drawn to the contents of this circular so that no invalid or improper action, whether in relation to pending proceedings, fresh proceedings under section 34, or proceedings for assessment for the year 1939/40, is taken.

Part I of the Amending Act, which contains all amendments other than those relating to and consequent upon the setting up of an Appellate Tribunal, has come into force on the 1st April 1939 subject to the proviso that the amendments to subclauses (vi) and (vii) of subsection (2) of section 10 of the 1922 Act are not to take effect earlier than the 1st April 1940. Part II is to come into force on such subsequent date, not being later than the 1st April 1941, as the Central Government may appoint, but it is not anticipated that it will come into force before the 1st April 1941.

Subject ..

Subject to the above, the provisions of Part I of the Amending Act, which relate to changes in the incidence of taxation and to the method of computing income, are effective in respect of all assessments made for the year 1939/40 (on the income of 1938/39) and for subsequent years. Those provisions of Part I of the Amending Act which make administrative changes (e.g., the appointment of Appellate and Inspecting Assistant Commissioners to perform separate functions) have come into force from the 1st of April 1939 for all purposes, including the completion of existing proceedings relating to assessments earlier than the assessments for the year 1939/40. It should be noted therefore that no person who has been appointed as an Inspecting Assistant Commissioner may on or after the 1st of April 1939 make any appellate order and that the new jurisdictions for Appellate Assistant Commissioners come into force as on that day for all the purposes of the Act, and that they should not on or after that date do anything which is inconsistent with their restricted functions under the amended Act. In any case of doubt the matter should be referred immediately to the Central Board of Revenue through the Commissioner.

Lowry

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax
including Commissioner of Income-tax
(Central).

The Income-tax Adviser to the Board.

orders to the Commissioner concerned, in addition to that sent by them to the Income-tax Officer or to the Appellant. The Commissioner will, in his discretion, call for the assessment record of any case which he wishes to examine, and bring to the notice of the Board cases of incorrect or ineffective disposals, with such other relevant comments as he deems necessary. The Board will also prescribe a form of monthly report to watch the progress of disposal of appeals. The Income-tax Advisor to the Board will inspect the offices of Appellate Assistant Commissioners as and when possible.

5. When an Appellate Assistant Commissioner is hearing an appeal, the Income-tax Officer who made the assessment should be present in those cases only in which the Inspecting Assistant Commissioner considers his presence to be necessary. Income-tax Officers should, as a matter of routine, notify the Inspecting Assistant Commissioner of all cases in which an appeal has been lodged and the latter will, apart from examining these cases if he considers it desirable, inform the Income-tax Officer of the cases in which he should appear before the Appellate Assistant Commissioner. Ordinarily, the Income-tax Officer's presence will be necessary in cases involving a particularly difficult point of law or of fact upon which the Income-tax Officer's

exposition.....

exposition would be a valuable corrective to an advocate's exposition and cases, in which there was a reasonable fear that the statements of the appellant before an Appellate Assistant Commissioner, unaware of his character would lead to miscarriage of justice, and in which, therefore, the presence of the Income-tax Officer might effectively prevent the acceptance of gross misstatements or even the making of such misstatements.

FIRST SECRETARY, CENTRAL BOARD OF REVENUE.

Copy forwarded to all Commissioners of Income-tax, the Special Investigating Officer, Bombay and the Income-tax Adviser to the Board.

By order, etc.,

FIRST SECRETARY, CENTRAL BOARD OF REVENUE.

Circular No. 7 of 1939.

C.No.46(7)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 3rd May 1939.

CIRCULAR.

Indian Income-tax Rules, 1922 - New rules 2 to 6B - Registration of firms - Registration to be granted only at the time of assessment.

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The attention of the Commissioners of Income-tax is invited to Board's Notification No.32-Income-tax, dated the 29th April 1939, (published in the Gazette of India of the same date) with which were published revised rules relating to the registration of firms. The Board has decided that no certificate under rule 4 or 6A should be granted otherwise than at the time of assessing the total income of the firm under section 23 of the Act. The Income-tax Officers may be instructed accordingly.

Sd/-

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax, (Central), Bombay.)

The Income-tax Adviser to the Board.